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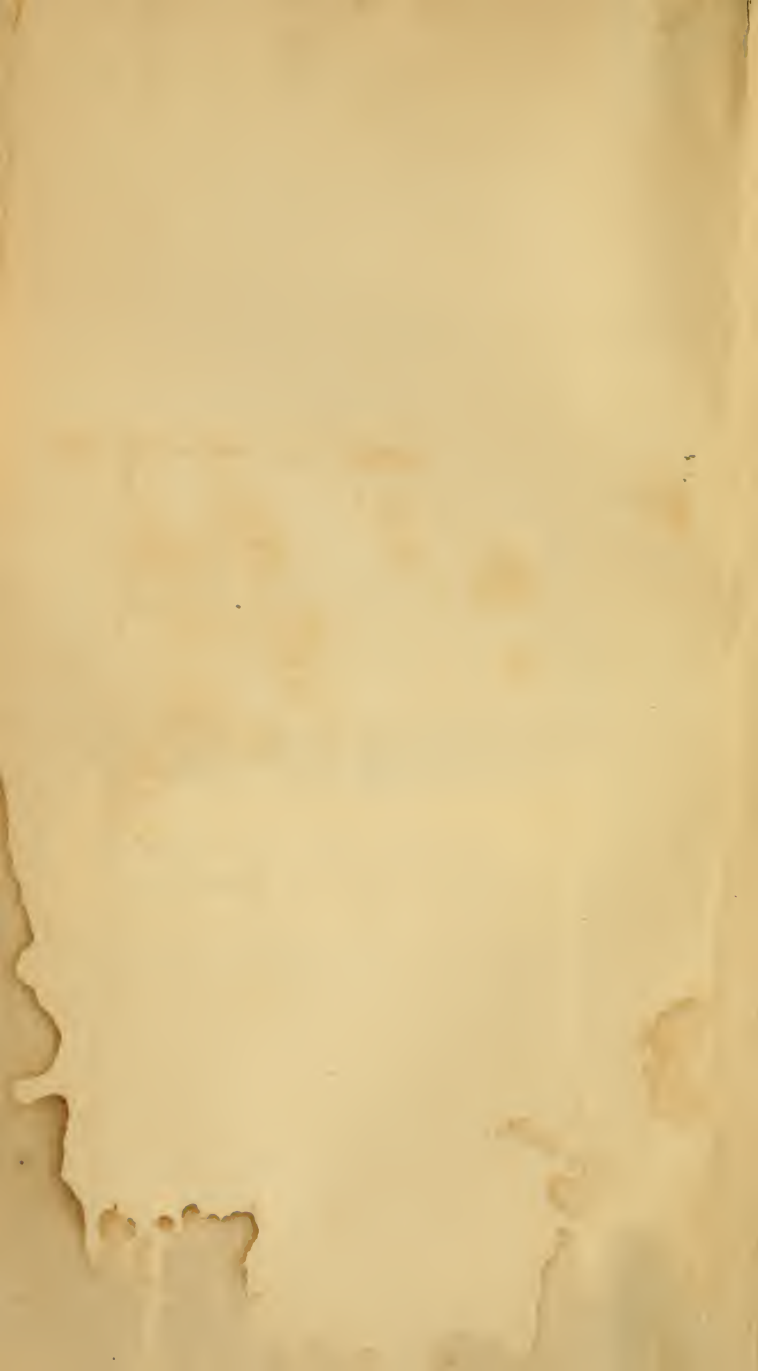
Annals of the General  
Assembly of the Church of

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ANNALS

OF THE

GENERAL ASSEMBLY

OF THE

CHURCH OF SCOTLAND,

FROM

THE FINAL SECESSION IN 1739,

TO

THE ORIGIN OF THE RELIEF IN 1752:

WITH AN APPENDIX

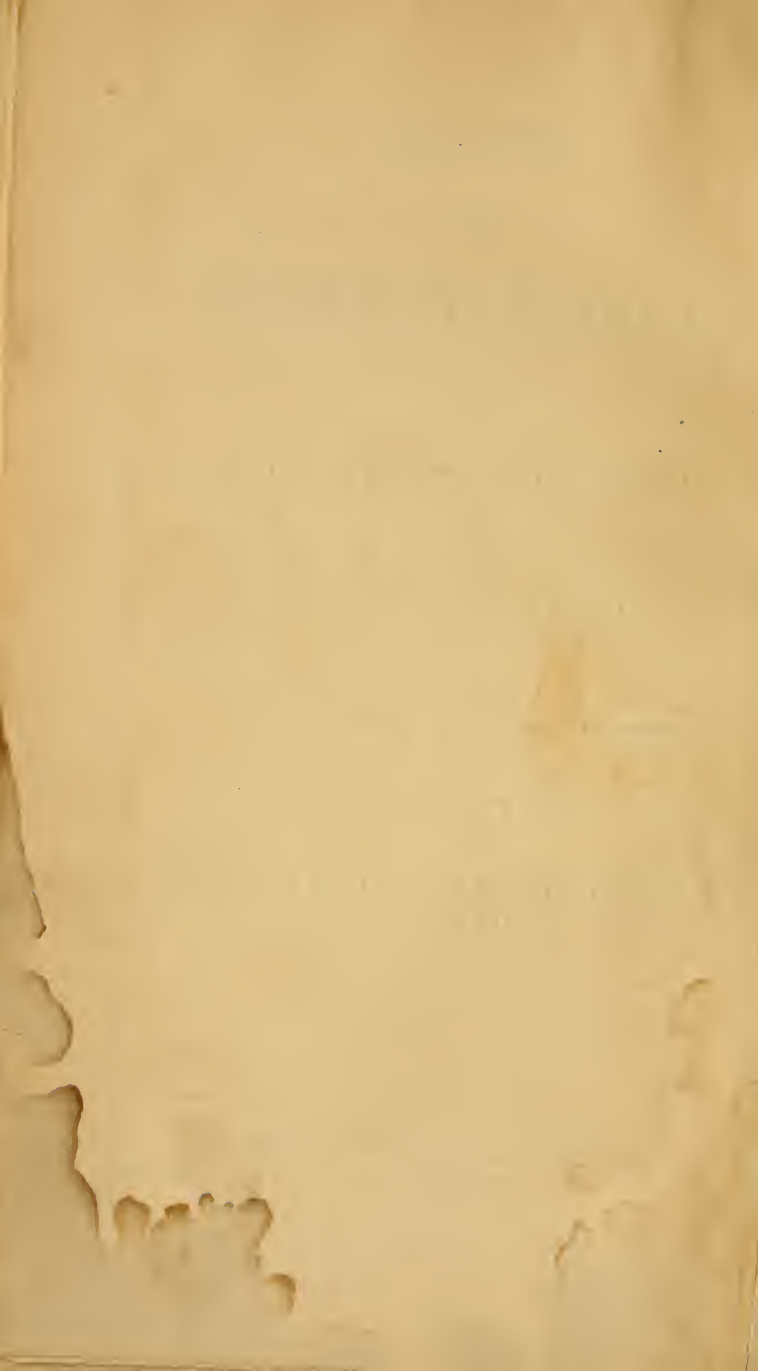
OF

BIOGRAPHICAL SKETCHES, ILLUSTRATIVE DOCUMENTS,  
AND NOTES.

EDINBURGH :

JOHN JOHNSTONE, 2, HUNTER SQUARE.

MDCCCXXXVIII.



THEOLOGICAL SEMINARY  
PREFACE.

THE present volume is designed to be, for the period which it embraces, a RECORD of the transactions of the General Assembly of the Scottish Church, whether relating to LEGISLATIVE ACTS or JUDICIAL DECISIONS;—inclusive also of whatever comes under the designation of “Miscellaneous Business,” with the exception of matters of mere routine.

The narrative of those affairs which may be considered as of general interest has, for the most part, been taken from the Reports in the *Scots Magazine*, which have been compared with the newspapers of the day, as well as with the original records of the Church. As for the many cases of less public importance, of which these records furnish the only extant account, the Compiler had the alternative of either reporting them in the language of the abridgment of the “Actings and Proceedings of the General Assembly,” given annually at the end of the Printed Acts, or of making a fresh abstract of them from the Manuscript Registers. He has preferred the former method, for the obvious reason, that as the summary in question was drawn up by a Committee of each successive Assembly, and published under their sanction, it possesses an authority, in the way of reference, which would attach to no other abstract. It has, however, been carefully collated with the unprinted record; and when additional information has been obtained thence, or from other sources, it will be found either enclosed within brackets, or embodied in the Notes at the foot of the page, or in the Appendix.—With respect to the proceedings of the *Commission* (which are seldom of much public interest), the final disposal of private cases referred to that body by the Assembly has been commonly mentioned in the Notes relating to these cases in the Appendix; but when no farther notice is

taken of them, it may be concluded that owing to the want of a *quorum*, or some other cause, they were allowed to fall to the ground. The Indices at the end of the volume will, it is presumed, be a sufficient guide to *all* that was done by the Assembly or its Commission in any particular question, and may prove serviceable even to those who possess the Printed Acts, where the same facility of reference is very much wanted.

The events of this period proved to be, in their remoter consequences, the most important in the internal history of the Church since the Revolution; for it was now that the violent struggle ensued between the two parties in the Assembly, which ended in the complete ascendancy of what were termed *moderate* principles. There had, indeed, been a temporary triumph of somewhat similar principles\* previously to the commencement of the Secession in 1733; but after that event there was a manifest re-action in favour of *popular* views, and this continued up to the year 1739 (with which the volume opens), when the Seceders having, by their Act of Declinature, closed

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\* There were, however, two material points of difference in the principles of the *old* and the *new* Moderate Party. The latter, as is well known, ordered the settlement of every presentee without respect either to the signatures at the call, or to the scruples of a reluctant Presbytery. The former *professed* at least to maintain the necessity of a call from heritors and elders, and when they decided that a settlement should go on, they commonly left it to be effected by "such of the Presbytery as were willing," or by a committee of the Synod or Assembly. The new Moderate party can scarcely be said to have been consolidated until Principal Robertson removed to Edinburgh, about 1762; but he was the prime mover in the decision in the Inverkeithing case, in which however he was supported by Professor Cuming (see p. 290), who had long been the acknowledged leader of the older Moderates. Indeed, there was a *suddenness* in the change of policy at that period which has never been satisfactorily accounted for. The Assembly of 1751 rejected Robertson's proposal to suspend Mr. Adams of Falkirk, and other members of the Linlithgow Presbytery, for their recusancy in the Torphichen settlement, by a majority of 200 to 11. The Assembly of 1752, though there were *three* (the usual *quorum*) of the Dunfermline Presbytery willing to settle Mr. Richardson at Inverkeithing, yet raised the *quorum* to *five*; and of the absentees from the induction they *brevi manu* deposed one, and suspended the rest. Mr. Dugald Stewart ascribes this abrupt transition from leniency to severity to the eloquence of Robertson; but allowing all due weight to that and other circumstances, they are not to my mind sufficient to account for the *very great majority* by which the new measures were supported. But let the reader mark the fact, that the Augmentation-Scheme was defeated in Parliament immediately after the Assembly 1751, and let him peruse the paper that was then circulated, and which we have given in the foot-note to p. 196, and he may possibly there find some explanation of the mystery.

the door for their return to the Church, the efforts of the popular party were paralysed\*; and the conflict of antagonist principles being continued, the ultimate result was the famous decision in the Inverkeithing case in 1752, which laid the foundation of "the Relief," and with which the present volume closes.

It will thus be seen that the period which is here embraced forms a distinct and complete era in the Church's history, the commencement of which dates precisely a century ago†. The Compiler expected to be able to comprise in the volume a few years more, but so much additional matter came to hand while it was passing through the press, that the plan announced in the Prospectus of the work had to be somewhat modified. He trusts, however, that the size and contents of the Appendix will be held to be a sufficient compensation, the more especially as none of the documents given there are to be found in the "Printed Acts," nor indeed are any of the longer papers which have been engrossed in the body of the work, such as the "*Manifestos of the Moderate and Popular Parties*," "*the Warning against the Rebellion*," "*the Plan of the Widows' Fund, &c.*"

The Minister for Scottish affairs, during the greater part of the period, was Archibald, Earl of Islay (who, in 1743, succeeded his brother John, as Duke of Argyle), and under him, Andrew Fletcher, Lord Milton, a nephew of Fletcher of Saltoun, and for many years Lord Justice

\* In proof of this, the reader may consult "*Willison's Fair and Impartial Testimony unto the Laudable Principles, Wrestlings, and Attainments of the Church of Scotland*," which appeared in 1744, and throws much light on the state of parties.

† It was coeval with the first publication of the *Scots Magazine*, a periodical which devoted much attention to church affairs, and is indeed the only one which presents a continuous detail of the Assembly's proceedings. The Edinburgh newspapers, on the other hand, in consequence of their limited size, had often to make church news give way to political. Thus, in the *Courant* of 1745 (while as yet there was no Rebellion), the only notice of the Assembly is in the following paragraph:—"Scots affairs contain no material matters. The business of the General Assembly has been conducted with peace, unanimity, and quiet, but is scarce worth the attention of the public, considering the important news from every quarter."—During the previous week intelligence had been received of the battle of Fontenoy.—The *Caledonian Mercury* was conducted by the two Ruddimans, who occasionally gave vent to their Jacobitism in caustic sallies on the proceedings of "the Kirk," of which some amusing specimens will be seen in our "*Notes on Disputed Settlements*" in the Appendix.



Clerk. The clergyman whom they chiefly consulted in ecclesiastical affairs was Dr. Patrick Cuming, and to that circumstance he mainly owed his influence in the Assembly. After the fall of Walpole's ministry in 1742, the office of Secretary for Scotland was revived in the person of the Marquis of Tweeddale, who held it till 1746, when it was again abolished. His counsellor in Church matters was understood to be Dr. Robert Wallace, of whom, and the other Moderators during the period (as well as of the Lords Commissioners and Office-Bearers), some notices will be found in the Appendix.

The Debates of the Assembly will here be found reported, in so far as they have come down to us ; but it must be borne in mind, that in those days they were neither so frequent nor so full as in after times. Until Robertson appeared on the scene, "hardly any rose up to speak till called upon by the Moderator, unless men advanced in years, of high rank, or of established characters. His example and influence encouraged young men of abilities to take their share of public business ; and thus deprived Moderators of an engine for preventing causes being fairly and impartially discussed."\*

It is the Compiler's wish to follow up this volume with others, so as to complete the Church's Annals from 1688 to the present day ; but the fulfilment of this design must necessarily depend (among other contingencies) upon the degree of countenance afforded to the work by the ministers and members of the Church, to whom he now begs respectfully to commend it.

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\* *Erskine's* Funeral Sermon for Principal Robertson, in his Discourses, vol. i. p. 261.—In private causes counsel were heard as at present. The Assembly practice was very much divided between Messrs. *Joseph Williamson* and *Archibald Murray*, for it is only occasionally that we meet with the names of the famous *Lockhart* of Covington, *Home* of Kames, *Burnett* of Monboddo, *Grahame* of Easdale, *Charles Hamilton Gordon*, *Patrick Haldane*, and others. The Record of the Commission for May 1742 bears, that "the Commission, considering that no less than *four* lawyers had compared on one side of a case, who were all severally heard, *which consumed much time to little purpose*, remitted to their members from the Presbytery, City and University of Edinburgh, to prepare an overture for regulating the number of lawyers to be heard on one side in any cause." The case referred to was that of *Buchanan* of Drymen (see p. 335). The overture proposed was allowed to drop ; but in a question which came before the Assembly 1752 (see p. 285), it was resolved to hear only *two* speakers on each side. In 1751, Mr. *Joseph Williamson* having appeared as counsel, though a member of Assembly, an Act was passed (p. 197), prohibiting that in all time coming.

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# ANNALS

OF THE

## GENERAL ASSEMBLY.

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1739.

### MEETING OF THE COMMISSION IN MARCH.

THE affair of greatest importance discussed at this meeting was the "Case of the Seceders,"—in order to the right understanding of which it will be necessary to give a short sketch of the *Origin of the Secession*—which we shall do in the words of a cotemporary writer:—

"There being no fixed method for the Church-Judicatories to proceed upon, in settling ministers in vacant churches, since the Act of Parliament *decimo Annæ* restoring patronages, great disturbances happened in different parts of the kingdom upon these occasions. To remedy which, the General Assembly 1732, passed an Act, till it should please God to relieve the Church of the grievance of patronages, vesting the town-council, heritors and elders, in royal burghs, and in landward parishes, the heritors and elders, with the power of electing and calling ministers or preachers to supply their vacancies\*; the person elected to be proposed to the congregation for their approbation, or, in case they disapproved, that the reasons should be laid before the Presbytery. This Act was, in substance, much the same with the Act of Parliament 1690, which was framed by the advice of some of the principal Presbyterian clergy at that time, and with which the Church, by an uninterrupted acquiescence, showed

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\* It was only "where the right of doing so fell into the hands of Presbyteries, either *tanquam jure devoluto*, or by the consent of such as had interest;" viz. patrons, who in those days frequently waved their privilege, and allowed Presbyteries to moderate in a call at large.

her satisfaction, till the year 1712 : when the Parliament restored to patrons the power of presenting ministers to vacant churches in Scotland. However, the Act of Assembly 1732 gave offence to several members of the Church, who maintain the divine right of the people to a suffrage in the choice of their own pastors ; and especially to Mr. Ebenezer Erskine, minister at Stirling, who *testified* against it and several other decisions of the Church-Judicatories, in a sermon at the opening of the Synod of Perth and Stirling, in Oct. 1732. This was the beginning of the divisions that have since followed. For the Synod ordered Mr. Erskine to be rebuked at their bar for reflecting against the proceedings of the Church-Judicatories. From which sentence he appealed to the Assembly 1733 ; who having heard parties, ordered Mr. Erskine to be rebuked at their own bar—which was done accordingly.—To this sentence, as importing that he had departed from the word of God and approven standards of the Church, Mr. Erskine would not submit ; but protested, That he should be at liberty still to preach the same truths of God, and to testify against the same or the like defections of the church upon all proper occasions. Messrs. William Wilson at Perth, Alexander Moncrief at Abernethy, and James Fisher at Kinclaven, ministers, adhered to this protest ; and then they all withdrew. Whereupon the Assembly passed an Act, ordering the protesters to appear before the Commission in August, and show their sorrow for their conduct ; and, in case they should refuse to retract their protest, the Commission was appointed to suspend them from the exercise of their pastoral office. The protesters appeared in August, but still adhered to their former protest ; whereupon the Commission suspended them. In November they again appeared before the Commission ; who, finding they disregarded the sentence of suspension, and continued in their former courses, declared them *no longer ministers of this church*, and their churches to be vacant from the date of the sentence. This sentence being intimated to them, they read a paper, wherein *they made a secession from the church*, and protested, That, notwithstanding this sentence, their pastoral relation to their respective parishes should still be firm and valid, and that it should be lawful and warrantable for them to exercise the keys of doctrine, discipline and

government, according to the word of God, the Confession of Faith, and the principles and constitution of the Covenanted Church of Scotland.

“The Assembly 1734 seemed to disapprove of the measures taken in some former Assemblies and their Commissions ;—for they repealed the Act 1732, passed an Act in favour of ministerial freedom, dispatched Commissioners to address the King and Parliament for a repeal of the Patronage Act, turned a young clergyman\* out of his church, who had been ordained by the preceding Commission, contrary to the inclinations of the body of the christian people ; and empowered the Synod of Perth and Stirling, under certain limitations, to restore the Seceders to their ministerial charges. Some time thereafter, that Synod accordingly took off the sentences pronounced by the Commission in 1733 against them. But they refused to come in to the church, which they said had unjustly thrust them out ; associated themselves into a Presbytery, assuming a power paramount to that of the church over all Scotland ; and published a pamphlet, intitled, *Act, Declaration and Testimony, for the doctrine, worship, &c. of the Church of Scotland*, in which they review the conduct of the church for a long series of years past, condemn her decisions, and represent her as corrupted. Their party is since strengthened by the accession of Messrs. Ralph Erskine at Dunfermline, Thomas Mair at Orwell, Thomas Nairn at Abbotshall, and James Thomson at Burntisland.”

The General Assembly of 1738 found themselves obliged to take particular notice of their conduct ; and, after appointing the use of gentle means to reclaim them, empowered their Commission (if that method should prove ineffectual) to take all proper steps to sist them at the bar of the next Assembly. In consequence of this, several ministers invited them to a conference, which they constantly refused, unless they would agree to argue the debated points, not as commissioned by the General Assembly, but in the quality of fellow-christians. The Commission in November finding there were no grounds to imagine they inclined to alter their conduct, named a com-

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\* Mr. Matthew Moncrief at Auchtermuchty ;—but the consequence was a process in the Court of Session, to which some reference will be found in the case of Culross (1749) and of Lanark (1750).

mittee to prepare a libel to be put into their hands, which was now presented to that reverend body (March 1739.) Several warm debates ensued, whether, in the present situation of affairs, it was expedient to proceed further? It carried by a narrow majority, to put the libel in the Seceders' hands, and to grant warrant for sisting them at the bar of the next Assembly, together with witnesses to prove the charge.

This libel enumerates the several charges which are alleged against these reverend gentlemen; and particularly narrates their secession from the church without any justifiable ground, and persisting therein, contrary to their solemn vows at their ordination; assuming a power of erecting themselves into a Presbytery, and pretending to judicial acts over the whole church; publishing to the world their *Act, Declaration, and Testimony*, wherein they condemn the church, and throw out many groundless calumnies against her; dispensing ordinances to persons without the consent of the ministers of the congregations to which they belong; ordaining of elders, and keeping fasts in different parts of the country; licensing Mr. John Hunter to preach the gospel, and directing him to a particular parish (viz. Larbert) wherein to exercise his ministry\*; taking off a sentence of excommunication, passed by the Presbytery of Dumblane; absolving scandalous persons; excommunicating one David Lesly, Baxter in Pleasants; baptizing children without proper certificates; obstinately refusing conferences with the ministers of their respective Presbyteries; and Mr. Ebenezer Erskine's protesting against five elders, members of the session of Stirling, summoning them to appear at the tribunal of Christ, on the day determined in God's secret decree, to answer for their conduct."

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#### ASSEMBLY, 1739.

On Thursday the 10th of May the General Assembly met. The Right Hon. the Earl of Hyndford represented

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\* He was ordained by Mr. Ralph Erskine, who preached a sermon on the occasion that was afterwards published with the title of "Gospel Compulsion." Mr. Hunter died in January 1740.



his Majesty, and was all along attended by the nobility and other persons of distinction in the place. After sermon by Mr. James Ramsay, minister of Kelso, Moderator of the last Assembly, Mr. James Bannatyne, one of the ministers of Edinburgh, was elected Moderator.

Omitting the usual routine business we proceed to the case of the Seceders, which came on upon Saturday, the 12th May.

A motion being made by Mr. Ramsay, the late Moderator, to read the minutes of the last Commission, and to take the libel against the Seceders into consideration, a great many imagined it highly inexpedient at this juncture to insist on the charge; while others were as forward in persuading the Assembly, that they were now reduced to a necessity of exerting their authority, and of doing what was proper to preserve them from an universal contempt, which, they said, would be the consequence.

That the reader may have a summary view of this affair, we shall give a short abstract of the reasonings on both sides, in a committee of the whole house, which met twice in reference to it.

Those who thought *forbearance* necessary, opened the debate with observations on the frequent mischiefs which violent measures had occasioned. "Inflexibility of temper is a character which becomes no court. The Seceders in some measure may be said to be useful; they edify many pious christians; express a sincere regard for Presbyterian Church-government; and are men of a good and moral conduct. It is true they are unhappy in differing from the judicatures established by law, yet charity will teach us to impute that to an erroneous conscience, which can never be a ground of severe censure against men in other respects good and useful members of society. Severity can produce no good consequences; persecution never yet diminished a sect; it increases the flame, and gives the party an opportunity to triumph. Besides, is it not plain the schism is decreasing? The Seceders pursue such methods as must soon reduce them to universal contempt. Can the Church have aught to fear? Is she to be shaken or overturned by a set of men who have neither power nor interest to do her any considerable prejudice? Every society should propose some good end in their public actions, but if any imagined that could be ob-

tained by severity, it was a fatal mistake ; it would only inflame the minds of the multitude, and tempt them to fly out into yet greater extravagancies. The Assembly ought to imitate the lenity of the State, which, far from punishing its avowed calumniators, daily permitted the most scandalous pamphlets and libels to go without notice.\* It is hard to tell what turn the affairs of the nation may take ; and, should it happen that we come to be involved in a foreign war, is it a time to create enemies at home ? This would be an unkind return to a good and mild government, which always favoured us so much, &c.”

On the other side it was said : “ It cannot be doubted that when both divine and human laws vest a power in any society, it is obliged to exert it when the strongest necessity requires ; which is undeniably the present case, for the matter now rests upon the principle of self-defence. The Church is mangled and rent by a perfidious set who had sworn to defend her. Why then do men call justice, severity ? or so necessary a step, a hardship ? If men allow such an association of ideas, reason, justice, and all order, will soon vanish. Let not therefore justice be branded with the vile name of persecution ; or the acting agreeably to received laws and all the known forms of discipline, be thought a hardship. What has been gained by a seven years’ forbearance ? Have not these unhappy men been encouraged to continue the schism ? Have not gentle measures been used ? and with what success we all can tell. Slackness in punishing offenders like them had effected the ruin of the Church in the days of Cromwell, when inconsiderable sects, through a neglect at first, became powerful enough to overturn the whole establishment. But the practice of the Church shews her mind. In the case of Macmillan, Hepburn and Tailor, who were full as popular as the present Seceders, an Assembly, without fear of the numbers which followed them, proceeded to a sentence, which had such happy effects, that at this day we scarce see the remains of that schism. One of them bitterly lamented his conduct, and died full of a sincere repentance for being the instrument of division. Why should the Seceders’ characters be thus magnified ? Wherein did their goodness and morality

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\* The ministry of Sir Robert Walpole was at this period assailed by a host of pamphleteers, who had no small share in hastening its downfall.

consist? If, to delude a mob, to inspire them with pride, envy, hatred, and all the sour and ill-natured passions, was moral or good, then they had a pretence to it. Nor could men who affected powers inconsistent with the very being of Presbytery, be well said to have a sincere regard to Presbyterian principles."

After these debates, a narrow majority\* carried the question of sisting the Seceders at the bar, and proceeding upon the libel: on which they were called, and the whole of them appeared.

The Moderator, in the Assembly's name, exhorted them to consider their disorderly courses, and to submit to that Church to which they had vowed obedience. He told them, That though they were come there to answer a libel, the Assembly was now ready, upon their submission, to receive them with open arms; and besought them to be no longer deaf to the calls of reason and scripture. But Mr. Mair, Moderator of the Associate Presbytery, presented a paper, which, after hearing the libel, he read before the Assembly, intitled, "Act of the Associate Presbytery, finding and declaring, That the present judicatures of this National Church are not lawful nor right constitute courts of Christ; and declining all authority, power and jurisdiction that the said judicatures may claim to themselves over the said Presbytery, or any of the members thereof, or over any that are under their inspection; and particularly declining the authority of a General Assembly now met at Edinburgh the 10th day of May 1739."

In the preamble, after enumerating the good uses of provincial and national Synods, as well as classical Presbyteries, when duly constituted, they affirm, That there have been provincial and national Synods, so corrupt in their constitution, and so irregular in their procedure, that the keys of government and discipline have been perverted contrary to their original design; inso-much that error has been countenanced and encouraged, a lax and corrupt ministry have been supported, and such as endeavoured to be faithful have been borne down and censured:—And therefore, in a consistency with the

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\* Mr. Willison, of Dundee, and four other ministers, and two elders, dissented with reasons.

principles of the reformed and covenanted Church of Scotland, with their duty to Christ, the souls committed to their charge, and the Lord's heritage through the land; and, in a consistency with the engagements they came severally under when ordained to the ministry, they testify and declare, That the present judicatures of this National Church are not lawful nor right constitute courts of Christ; and consequently, that they cannot warrantably claim to themselves any power or authority over the members of this Presbytery or their adherents.

The Act is divided into three heads. The *first* asserts, That such ministers as are imposed by mere church-authority, by presentations, or otherwise, upon dissenting and reclaiming congregations, have no warrant from Christ, and consequently, have no right to sit in his courts; and that the christian people may justly decline their jurisdiction:—That these courts are constitute of many such members as not only impose ministers upon dissenting congregations, but even where the Presbytery of the bounds have likewise dissented;—of such as are not only silent in the public cause of God, but dissemblers of public sins;—of such as scatter and drive away the flock of Christ, ruling them with force and cruelty, and who depart from the traditions of the Apostles; yet are not ashamed, but justify these practices;—of such as have been active in making the Act of Assembly 1732 anent the election of ministers to vacant congregations, the Acts of Assembly 1733 against the protesting ministers, and the ministers of the Presbytery of Dunfermline\*;—and of such as not only refuse to purge out, but continue to support intruders.

In the *second* head they assert, That the present judicatures of this National Church are tolerating the erroneous, and supporting and countenancing error; as appears by their conduct in the cases of Messrs. Simson, Campbell, and Wishart.

In the *third* head they assert, That the present judicatures of this Church have subordinated themselves unto

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\* This related to the "sharp rebuke" administered at the bar of the Assembly, to Messrs. Ralph Erskine, and Mair, (two of the Seceders), and other ministers of the Dunfermline Presbytery, for their conduct in the settlement of Mr. Stark at Kinross. In so far as the Secession was a matter of *feeling*, nothing so much contributed to it as that Act.



the civil powers in their ecclesiastical meetings, functions, and administrations;—that the crown-rights of the Redeemer have never been asserted, in opposition to the sinful encroachments made upon his spiritual kingdom by parliamentary acts, unlawful oaths, bonds and tests, during the late times of tyranny and persecution;—that, as a just punishment of this their sin, the act anent Captain Porteous, appointed to be read from the pulpits the first Sunday of every month for a year, is become a sad snare to ministers and judicatures;—and though all the judicatures of this church, supreme and subordinate, have met since the passing and reading of the said act, yet the readers of it are not censured.

Upon the whole, they protested, That whatever sentence should be passed by the Assembly, their pastoral relation should still subsist; and that whoever should exercise any part of the ministerial function in their congregations, should be held as intruders, &c. And beseeching, in the bowels of Christ, their reverend, worthy and dear brethren and elders, who regard our covenanted testimony for the Church of Scotland, to come out from the present judicatures, and from all ministerial communion with her, as they would not be partakers of their sins;—to make use of the keys of government and discipline, and put to their hand to lift up the standard of a judicial testimony for the borne-down truths of God, for our reformation-principles, and purging the house of God, after the example of our worthy progenitors.

After long reasoning, the Assembly divided on this question, *Proceed to a final sentence, or not?* and it carried *Not* by a very few voices. This made the house agree to an overture, which they passed into an Act; by which they find the libel proven against them, and “Find and declare, That the said defenders, for the offences so found relevant and proven, do justly merit the *highest censures* of this Church, and particularly that of *deposition*; but forbear the same *yet another year*, in order to give them a further time to return to their duty, and to render them *still more inexcusable* if they should *persist* in their unwarrantable separation; and this Assembly do *earnestly recommend* it to the next General Assembly to *inflict the censure of deposition*, without further delay, upon such of the said defenders as shall not, betwixt and that

time, either in presence of the Commission, or of the ensuing General Assembly, retract the said pretended act and declinature, and return to their duty and submission to this Church ; and the General Assembly resolve, that their Commission do cite Mr. James Thomson minister at Burntisland *de novo*, to answer to the next Assembly for the matters contained in the said libel given in by him and the other defenders ; and ordain Presbyteries and Synods, if they cannot quickly reclaim such ministers as may hereafter secede, to proceed against them, by way of libel, to the sentence of deposition ; and to apply to the Commission for advice, as they shall see cause.\*

Upon a representation of the Synod of Angus and Mearns, of the tenor of some former applications of other Synods, the Assembly took off a sentence of deposition passed by the Commission, 12th March 1730, against *Mr. John Glass*, then minister at Tealing, for Independent principles, and restored him to the character of a minister of the gospel of Christ ; but declaring, notwithstanding, that he is not to be esteemed a minister of the Established Church of Scotland, or capable to be called and settled therein, until he shall renounce the principles embraced by him, that are inconsistent with the constitution of this Church.

In the case of a petition of Sir James Sinclair of Dunbeath, patron, and of other heritors and elders of the parish of *Bower*, callers of Mr. John Corse, probationer, to be their minister, tabling an appeal by them, from the resolution and proceedings of the Presbytery of Caithness, to take one Mr. Alexander Oliphant, probationer, upon trials, in order to his settlement in said parish, upon a call by some other heritors and parishioners thereof,—the sentence of the Presbytery is affirmed.

Petitions of the parish of *Dalgety*, and Presbytery of Dunfermline, read, referring to a sentence passed by the Commission of the late General Assembly, transporting Mr. James Bathgate, minister, from the said parish, to be one of the ministers of Stirling, with which sentence he

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\* The Assembly also appointed a Committee to draw up a statement of the whole case for publication.

has not complied, but has chosen rather to give up the office of the ministry, and has accordingly made offer to the said Presbytery of a demission of his pastoral office, as well as his license to preach the gospel, and craving the Assembly may treat him with such tenderness as may preserve his usefulness in the ministry; and this affair remitted to a committee named to confer with parties.

Petition of the parish of *Kingsbarns*, callers of Mr. Joseph Pitcairn, probationer, to be their minister, craving redress against a sentence of the late Commission, appointing the Presbytery of St. Andrews to proceed to the trials and settlement of Mr. William Vilant, probationer, to be minister of the said parish. The Assembly found that the Commission did not exceed their powers in that affair, and therefore dismissed the complaint; and as to the difference the Presbytery had, with respect to the execution of the sentence, brought by a complaint of the majority against the minority, to the Synod of Fife, and by them referred to the Assembly, agreed that the settlement of Mr. William Vilant stand good, and the complaint be dismissed as to it,—reserving to the Assembly to consider how far they will make a new express regulation in time coming.

Overture “Discharging all Presbyteries to consent to, or connive at, the *annexation or suppression of parishes*, without the consent or approbation of the Synod of the bounds, or the General Assembly,” transmitted to Presbyteries for their opinion to the next Assembly, and meantime the same appointed to be observed.

In the complaint of the Presbytery of Irvine against the late Commission’s sentence about the settlement of the parish of *Kilmaurs*, and against a minor part of the said Presbytery for executing that sentence in opposition to the mind of the majority, the Assembly found, that in passing sentence, affirming a judgment of the Synod of Glasgow and Ayr, concurring with a call of said parish to Mr. William Coates, the Commission did not exceed their powers, and therefore the sentence cannot be reversed; but the Assembly did not agree to approve of their conduct in appointing the Presbytery, *or such as should be willing*, to execute that sentence.—The petition of the Presbytery against the sentence of the Commission, will be found in the Appendix to the Report of the Church

Patronage Committee of the House of Commons (1834) p. 20.\* It states and argues the case thus:—

“ To us it appears manifest, that the appointing of Mr. Coates to be ordained minister of Kilmaurs, is directly in opposition to the will of that congregation; for if by congregation be meant heads of families, then there are only twenty-two for him; and against him, and for another worthy probationer within our bounds, one hundred and seventy-three; whence it is to be gathered, that a great majority of communicants and examinable persons are against him. Or, if by congregation be meant heritors and elders, then there are of heritors (whereof one is an elder) for Mr. Coates thirty-seven, and of these, twelve only, of lesser note, reside in the parish. And there are against him, of heritors sixty-five, of which the most part are resident, and all the elders, save the one aforesaid, and all for the said other probationer; so that if by congregation be meant heritors and elders representing the congregation, then the settling of Mr. Coates is evidently contrary to the majority of these.

“ Here then we would desire to know to what purpose it is to moderate in a call to any presentee, to ask the votes of the several heritors and elders, with the consent of heads of families, if we are to proceed to the settlement even when the majority of heritors and elders, and almost the whole heads of families are against him. We cannot but think this method of settling ministers a solemn farce, and a mocking of heritors and elders and heads of families, by first allowing them a voice and consent, and then determining contrary thereto. This justly provokes them to ridicule and censure the conduct of ministers and church judicatories, as not quite fair, open or honest; nay, as being inconsistent with itself; for by moderating in a call, we allow heritors and elders a vote, and heads of families a consent; and yet, by concurring with the minority of all denominations, as it is in this case, we upon the matter say, they have no votes, or which is the same thing, reject and disregard their votes and consent. If it be alleged that the moderating in a call is to get a *tolerable* concurrence of the heritors, elders and heads of families, with the presentee, and that heritors' votes are to be

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\* There was another violent settlement at Kilmaurs in 1787—8.



rated according to the lands they possess in the parish ; to this it may be answered, that we know no law, either in Church or State, rating the votes of heritors in church affairs ; and that it would be more honest and open to tell the heritors, elders and heads of families, that we will go on to settle the presentee if they have no objections against his life or doctrine, which they can judicially verify, than to ask their votes and consent, and yet pay no regard to them. We know no act of this Church that has determined how many heritors and elders make a tolerable concurrence, except a majority ; and indeed if we were to lay the votes of heritors in the balance of the sanctuary, and so to judge of them not by their number but by their weight, we own residing heritors ought especially to be regarded, seeing their edification is much concerned in the matter, whereas the edification of non-residing heritors can be little or nothing concerned therein."

After praying the Assembly to appoint the moderation of a call at large, it concludes with the following representation :—

" And as what we reckon a very pungent motive to this, we beg to lay before the venerable Assembly in conclusion a short hint of the sad consequences of this unhappy affair, the most fatal, not only to that people but to this country-side, and the interests of the gospel therein, of any thing that has befallen us for many years past. Our people have hitherto been so happy as to know little or nothing of violent settlements ; but the settlement of Kilmaurs, agitated so long betwixt the people and the Presbytery, through the patron's refusing to drop it, and the people's invincible aversion to it, and the tossing of it so much and so long before church judicatories, has made a very great noise, has fired many of the people of the parishes around, many of whom have espoused the quarrel, looking on it as a common cause, which they know not how soon it may become their own. It has not only driven the bulk of the parish of Kilmaurs in a kind of desperation to think of, and to threaten a total separation from this Church, and to invite and join with the seceding preachers of late frequently visiting the bounds ; but they are joined therein by multitudes in many parishes, several of whom have actually seceded from their own ministers, though before this emergency they were peaceable and

orderly, showing no inclination to such divisive courses. So as schism now spreads and grows with us apace, and is like to overrun not a little of this country,—where it may end we cannot tell. Therefore, in the melancholy view of these dismal and native effects, felt, feared and increasing, we pray God may guide the Assembly in this weighty affair, of so great importance to the weal of the church, in our once peaceable but now inflamed bounds, and may direct them to some happy expedients for quenching this flame, and the spreading plague of schism in this National Church.”

Report that some authentic *registers of the Commission* of the General Assembly, from the year 1646 to 1653, in the hands of a private gentleman, are purchased at the public charge, and lodged in the clerk’s hands; that other records and manuscript volumes, found in the hands of the executors of the deceased Mr. Woodrow, minister at Eastwood, are lately put in the hands of the agents for the Church, to be inspected by a committee named by the late Assembly for that effect, and a committee named by this Assembly empowered to inspect and purchase such of them as they find necessary.

*May 22.* The Assembly was concluded with prayer, and singing Ps. cxxii. 6. to the end, and pronouncing the blessing.

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COMMISSION MEETING, NOVEMBER 1739.

THE Commission of the General Assembly met in the beginning of this month, and ordered the eight seceding ministers to be cited to appear at the bar of the next Assembly; and agreed on an Act for a National Fast, to implore the blessing of God for success to his Majesty’s arms, &c., war having been declared against Spain on the 19th October. At the same time, they humbly addressed his Majesty to name the day on which it should be observed, and further to interpose his royal authority to that effect. [In consequence of this address, the King was pleased, by a proclamation, to order its observance on the 9th day of January, 1740, through Scotland, England and Wales.]

1740.

*May 8.* This day the General Assembly met, when the Rev. Mr. George Logan, minister of the College Church, Edinburgh, was chosen Moderator. The Earl of Hyndford was Commissioner.

On Saturday the 10th, they entered upon the case of the *Seceding ministers*.—The preceding Assembly, though they found the libel against these brethren not only relevant to infer deposition, but also proven in its most material articles, by the *Act and Declinature* read and given in by them to that Assembly, forbore at that time to proceed to a final sentence; but earnestly recommended to the then ensuing Assembly to inflict the censure of deposition, without further delay, upon such of them as should not retract the said declinature, and ordered the Commission to cite them to appear and abide judgment accordingly: and to remove all colour of informality, Mr. Thomson, though included in the libel and determination above-mentioned, was ordained to be cited by the Commission, *de novo*, to answer for the matters contained in the libel and declinature, in regard his secession was posterior to the Act of the Assembly, 1738, which appointed the libel to be drawn up, and upon that account the competency of the process as to him rendered somewhat doubtful.—Agreeably to the above recommendation, the warrants and executions of citation were read, and the eight brethren thrice publicly called at the doors of the Assembly-house and New Church.—On the 12th they were again called; but none of them appeared at either diet.

Then the Assembly took under consideration the libel raised and executed anew against Mr. Thomson: which being read, and other papers relative to it, after reasoning, the question was again put with respect to him, in the same terms as was found by the Assembly 1739, “Is the libel against Mr. Thomson relevant to infer deposition, and proven as to its most material articles, viz. That the said Mr. Thomson has seceded and separated from this Church, and that he, with his said other brethren, associate themselves into a Presbytery, and as such have framed and published, and do adhere to the pretended *Act, Declaration, and Testimony*, libelled, wherein they

endeavour to assign the grounds of their unreasonable and irregular conduct, and take upon them to condemn this Church, and the judicatures thereof, for their proceedings, and to cast many groundless and calumnious reflections upon her and them; and that the said Mr. Thomson, with the other defenders, by the paper given in to the last Assembly, had the unparalleled boldness to appear before the highest judicature of this Church, to which they had vowed obedience, and, instead of answering as panels and defenders at the bar, pretended to appear as a separate, independent, and constituted judicature, and to read or pronounce an Act of theirs, condemning this Church and the judicatures thereof, upon several groundless pretences, and to decline the authority of the same; and that he the said Mr. Thomson, with the other defenders, did, in presence of the Assembly, by their said paper, take upon them to speak in most injurious, disrespectful and indecent terms concerning the highest civil authority: *Find or Not?*" And it carried *Find* by a very great majority.

The affair was resumed on the 15th. The arguments on this occasion were in substance much the same with those insisted on before the Assembly, 1739. And the question being put, *Depose or Not?* it carried *Depose*, 140; *Not*, 30; and some *non liquet*. Whereupon the Assembly passed an act or sentence, dated at Edinburgh, Thursday the fifteenth day of May, 1740; which, because of its importance, we shall give *verbatim*, viz. :—

“The General Assembly, pursuant to their resolution of the 12th instant, resumed the consideration of the process against the eight Seceding ministers: And having caused them to be again called, and none of them appearing, nor any person for them, the Assembly caused to be read the minute of their proceeding in this affair on Monday last, and also the Act of the last Assembly of May 19, 1739, and then proceeded to consider, Whether, upon the libel found relevant to infer deposition, and proven as to its most material articles, by the last General Assembly against the whole ministers therein named, and again found relevant and proven by this Assembly, in so far as concerns Mr. James Thomson, upon the new libel executed against him, in pursuance of the said Act of the last Assembly, this Assembly should proceed to inflict the said censure of deposition? And after full reasoning



upon the expediency thereof, and prayer to God for direction how to judge in this weighty affair, and for his blessing on such decision as the Assembly should come to, it was agreed to put the question, *Depose or Not?* And rolls being called, and votes marked, it carried by a very great majority, *Depose*: And therefore the General Assembly, in respect of the articles found relevant and proven against the persons therein and hereafter named by the last and this Assembly, as aforesaid, did, and hereby do, in the name of the Lord Jesus Christ, the sole King and Head of the Church, and by virtue of the power and authority committed by him to them, actually *depose* Messrs. Ebenezer Erskine at Stirling, William Wilson at Perth, Alexander Moncrief at Abernethy, James Fisher at Kinclaven, Ralph Erskine at Dunfermline, Thomas Mair at Orwel, Thomas Nairn at Abbotshall, and James Thomson at Burntisland, ministers, from the office of the holy ministry, prohibiting and discharging them, and every one of them, to exercise the same, or any part thereof, within this Church in all time coming: And the Assembly did, and hereby do declare all the parishes or charges of the persons above named vacant from and after the day and date of this sentence: And ordains copies hereof to be sent to the several Presbyteries of Stirling, Perth, Dunkeld, Dunfermline, and Kirkaldy; and the said respective Presbyteries are hereby ordered to send copies hereof to the Kirk-sessions of Perth and Dunfermline, and session-clerks of the other respective parishes hereby declared vacant, to be communicated to the elders: And the Assembly appoints, that letters be wrote by their Moderator to the magistrates of the respective burghs concerned, with copies of this sentence: And the Assembly recommends to the Presbyteries, within whose bounds the parishes or charges, now declared vacant, do lie, to be careful in using their best endeavours for supplying the same during the vacancy, and for promoting the speedy and comfortable settlement thereof."

Messrs. George Gillespie at Strathmiglo, Lawrence Brown at Lentrathen, Andrew Cuming at Largs, Robert Steadman at Beith, William Thomson at Strathmartin, John Thomson at Libberton in Biggar Presbytery, John Allan at Kirkmichael in Lochmaben Presbytery, Robert Boyd at Muiravonside, John Gilchrist at Bedrule, John

Johnston at Eckford, David Hunter at Saline, James Ramsay at Bendochy, Simon Riddel at Tinron, Robert Stark at Torrieburn, John Squire at Forres, ministers, and Colonel John Erskine of Carnock, Mr. Alexander Gordon of Ardoch, Sir Thomas Gordon of Earlston, and Mr. Albert Monro of Coul, ruling elders, dissented ; and though a committee, appointed for that purpose, dealt with them to retract, they next day gave in their reasons of dissent subscribed. The Assembly, it is thought, of purpose delayed passing sentence till the afternoon of the 15th, which is the term-day, that the deposed ministers might have a legal title to the current half-year's stipend. On the 16th, the Assembly empowered the Commission to decide finally in any process relating to the settlement of the parishes declared vacant by the above sentence.

As to private causes, the Assembly transported Mr. William Aitken from Larbert to *South-Leith* ;—ordered the settlement of Mr. Charles Cuninghame, the King's presentee, as minister of *Tranent*,\* which had been opposed by a party of the parish, who appeared for Mr. John Rogers, their deceased minister's assistant ;—and upon a complaint against a sentence of the late Commission (by which a sentence of the Presbytery of St. Andrew's, affirmed by the Synod of Fife, appointing Mr. John Loudon to be minister of *Ceres*, was reversed, and Mr. Thomas Scot ordained to be settled in that parish), dismissed the complaint, and ordered Mr. Scot's settlement to be proceeded in, by a very great majority.†

In a competition between several heritors, elders, &c. of the parish of *Currie*, and the magistrates of Edinburgh, who claimed a right of patronage, and in consequence thereof presented Mr. James Mercer, at *Aberdalgie*, to be minister of that parish, the Assembly found that there was sufficient evidence of the town's having been in use to present ; but, in order to bring about a comfortable settlement, named a committee to confer with the parties, who, after a meeting, at which the magistrates attended, but not the other party, brought in an overture ; which, after some amendments, was, upon the question put, agreed to, on the 17th of May, in the following terms,

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\* Mr. George Gillespie, and five other ministers, and two elders, dissented.

† One minister and one elder dissented.

viz., The General Assembly do declare, That, in respect of the difficulties attending the call to Mr. Mercer to the parish of Currie, they cannot proceed to settle him in that parish while these difficulties remain; and therefore, in case the magistrates and council of Edinburgh, as patrons, shall offer a leet of six to the Presbytery of Edinburgh, at their first meeting after the Assembly, to be by the said Presbytery tendered to the heritors and elders, in that case the Presbytery are hereby ordained to appoint a day for the moderation of a call by the heritors and elders, to one of the said leet, so as the Presbytery may report to the magistrates and council, betwixt and the first of August next, which of the said leet shall be the choice of the majority of heritors and elders; and the Assembly recommend to the magistrates and council of Edinburgh, to give a presentation to the person that shall be so chosen, declaring, That, in case no such choice shall be reported by the Presbytery, betwixt and the first of August next, to the magistrates and council, and in case the said magistrates and council shall present any person they shall think fit, at any time within six months after the date hereof, the Assembly do hereby appoint and ordain the Presbytery of Edinburgh to proceed and settle the person to be presented by the magistrates and council of Edinburgh, in either of the events above-mentioned, according to the rules of the Church.—Messrs. Geo. Gillespie and Wm. Thomson, and Mr. Gordon of Ardoch, elder, dissented. Mr. Mercer himself compeared and acquiesced in the sentence.\*

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\* “To those who are acquainted with the history of the times, this decision will appear to have been in a considerable degree influenced by the state of the country, and by the Secession from the Church, which was then openly avowed. Mr. Mercer was the person who had first moved a censure on Ebenezer Erskine’s sermon in the Synod of Perth; and the consequences of that measure were always connected with his name. He was in the highest degree obnoxious from that circumstance, to every order of the people; and the sentence of the Assembly was most gratifying to those who either countenanced or deprecated the Secession; though it was certainly at variance with many decisions in cases as difficult from their own merits both before this time and afterwards. In 1735, Mr. Mercer’s translation to the parish of Dron, in the Presbytery of Perth, had been in like manner refused by the Assembly.”—(*Moncreiff’s Life of Erskine*, p. 450.)—Yet it may be doubted whether such a case as that of Currie had ever before arisen, for Mr. Mercer’s call was only signed by *three* heritors and *four* heads of families. And besides, a body like the Town Council of Edinburgh were more likely to go into the compromise suggested by the Assembly, than a single patron would have been.

A sentence of the Synod of Fife, sustaining an appeal from a judgment of the Presbytery of St. Andrew's, appointing the moderation of a call at large to one to be minister of *Carnbee* (notwithstanding that a copy of the reasons of said appeal had not been timely lodged in the Moderator of the Presbytery's hands as well as the Clerk's) and disapproving of the Presbytery's appointing said moderation as matters then stood, and ordering a new moderation, after due pains taken to prepare and ripen the congregation for it, with the appeals, read; and the Assembly found no necessity to determine these appeals. Another sentence of the said Presbytery, granting the desire of a petition of some of that parish for a hearing of some probationers, and giving it as the opinion of the Presbytery, that the presentation by the Earl of Kelly, patron, to Mr. John Nairn, probationer, is accepted of by him in such a manner, as to be no hindrance to a free and unlimited moderation in the said parish, being read, the Assembly, without determining therein, remit to the Presbytery to reconsider the case as to that question, and deal with all parties concerned, in order to bring about a comfortable settlement of said parish, and a committee named to confer with parties in town.

The General Assembly having heard the overture transmitted by the late General Assembly to Presbyteries, concerning their consenting to suppressing of parish churches; and finding that diverse Presbyteries have given their opinion that the same be passed into an act: The General Assembly discharge all Presbyteries to consent to, or connive at, the *annexation or suppressing of parishes*, without the consent or approbation of the Synod of the bounds, or the General Assembly.

Act for the maintainance of Mr. Nicodemus Bieniaszeuski, student in divinity, from Lithuania.

The Lord Balmerino, patron of South Leith, thanked by the Assembly for the kind part his Lordship acted towards the settlement of that parish.

The management of the committee named by last Assembly to enquire after *registers and old manuscripts* concerning the Church;—the purchase of a copy of Mr. Baillie's letters, in four volumes, at the rate of £10 sterling, approved.

Overture about licensing probationers, and the form of



a license, transmitted to Presbyteries for their opinion thereon.

The management and diligence of the procurator and agent for the Church, in the process commenced against Roderick M'Neil of Bara, a papist, for security of the portion of his eldest daughter, a protestant, is approved; and recommendation to the Commission and committee for reformation of the Highlands, to interpose with the Sheriffs of Argyle, Inverness, and Ross, for appointing Deputies in remote parishes, in order to suppress immorality.

Appointment for sending letters to Synods to call for accompts from Presbyteries of the state of the *public libraries*, and send a written report thereof to the Commission or General Assembly.

The registers of the Presbytery of Perth's proceedings, from the 22d of April, 1618, to the 21st of September, 1681, inclusive, being lately recovered, an order is made for payment of the charges laid out thereon, being £3 3s.

Report of the visitors of the register of the late committee for managing the royal bounty, with their remarks thereon, with respect to that committee's recommending Mr. David M'Colm\* to the Commission for £20 sterling to assist him to publish an Irish Dictionary; and also the said committee's giving £10 to Mr. William Blair, minister at Kingussie, for preaching to a barrack at Ruthven, in his own parish. The register of the said committee for the last year attested, with a reservation as to their conduct with respect to Mr. M'Colm and Mr. Blair.

Upon report of the committee who had conferred with Mr. Bathgate, and heard him upon the cause of his demission of the office of the ministry, the Assembly caused him to be called to the bar, and he compearing, the Moderator did signify their dissatisfaction with his said conduct.

*May 20th.* The Assembly was concluded with prayer, and singing Ps. cii. 13—17, and the blessing.

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\* He was minister of Duddingston. His promised Dictionary never appeared; but he was the author of various Antiquarian Tracts and Letters, in one of which he sought to prove "the affinity of the language of the Americans of the Terra Firma and those of the Ancient Britons."

## NOVEMBER 1740.

THE Commission of the General Assembly met, and agreed upon the necessity of a National Fast, on account of the war, the present dearth, &c., and an application was made to his Majesty to appoint the day. [It was held on the 4th Feb. 1741.]

On the 13th, they passed the following Act, viz., "A petition having been presented to the late General Assembly, by *Mr. William Lauder*,\* teacher of humanity in Edinburgh, craving, That Dr. Arthur Johnston's Latin Paraphrase on the Psalms of David, and Mr. Robert Boyd of Trochrig's Hecatombæ Christiana, may be recommended to be taught in all grammar schools; and the Assembly having appointed a committee of their number to take the desire of the foresaid petition into their consideration, and report to the Commission: the said committee offered their opinion, "That the Commission should grant the desire of the said petition, and recommend the said Dr. Johnston's Paraphrase to be taught in the lower classes of the schools, and Mr. George Buchanan's Paraphrase on the Psalms, together with Mr. Robert Boyd of Trochrig's Hecatombæ Christiana, in the higher classes of schools, and humanity classes in universities. The Commission having heard the said report, unanimously approved thereof, and did, and hereby do, recommend accordingly."

## 1741.

ON the 14th of May, the General Assembly met, and after the usual formalities, Mr. James Ramsay, minister at Kelso, was chosen Moderator. Alexander, Earl of Leven, was Commissioner.

On the 23d they appointed a fast to be observed, on account of the present scarcity, the war, &c. leaving it to every Presbytery to fix upon any day in June most con-

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\* This is the same Lauder who, eleven years after (in 1751), made the impudent attempt to ruin the reputation of Milton, by accusing him of plagiarism, but was detected in his forgeries by Douglas, the author of the "Criterion of Miracles," afterwards Bishop of Salisbury.

venient for their respective districts. On the 25th, they drew up a congratulatory address to his Majesty on Admiral Vernon's success at Carthagea.

The report of the committee for overtures, upon that laid before them by the committee for revising Commissions, read ; and the Commission from the burgh of Dysart, to their Commissioner, sustained, though not attested by the Kirk-session nor Presbytery of the bounds, in respect their respective attestations were required under form of instrument, taken in the hands of a notary-public : And the Assembly enact, That for hereafter, when a Kirk-session or Presbytery refuse their attestation to a Commission from a burgh or university, without assigning the reason of their refusal, the Commissions shall be sustained, as if duly attested. The excuses of absent members from the Presbyteries of Zetland, North-Isles, Kirkwall, Cairstoun, Tongue, Gairloch, Long-Island, Abertarph, Mull, Lorn, and those in such remote places, sustained ; but ordered, That members who came up, and failed to attend the diets of this Assembly, an account of their absence be sent to their respective Presbyteries.

Recommendations to all the ministers of the several parishes within this Church, to give assistance to Mr. William Maitland,\* in his intended design of writing a History of Scotland, by drawing up, and sending to him answers to his printed queries, concerning their respective parishes.

The complaint of the parishioners of *Bowden*, opposers of the settlement of Mr. James Hume, probationer, to be their minister, against the Commission of the last Assembly, ordering his settlement in that parish ; with the complaint of the promoters of his settlement against the Presbytery of Selkirk, for delaying to obey the Commission's said sentence, heard, and the Assembly found, that the Commission had not exceeded their powers, and that therefore their sentence cannot be reversed ; and that the said Presbytery neglected their duty, to give obedi-

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\* An Antiquary of some note, born 1693, died 1757. The work referred to appeared in 1757 in 2 vols. folio, with the title of "The History and Antiquities of Scotland." Maitland however only wrote the first part, which ends with the death of James I. in 1437 ; that which brings the history down to the union of the crowns in 1603 was by another hand. Maitland also wrote a History of London (1739) ; but he is best known by his "History of Edinburgh," which appeared in 1753.

ence to the sentence of the Commission, and to send up to this Assembly the reasons of their delay ; and ordered them to settle the said Mr. Hume at Bowden, if found qualified, betwixt and the first of September next, with certification they will be censured as contumacious. And the said Presbytery is ordered to report to the Synod of Merse and Teviotdale, who, in case the Presbytery fail in finishing the settlement, are appointed to take the proper measures for having the said sentence of the Commission duly executed.

The sentence of the Synod of Aberdeen, disapproving the conduct of the Presbytery of Deer, in rejecting a petition of the heritors, elders and heads of families of the parish of *Rathen*, for the moderation of a call to Mr. George Largue minister at Kinnairny, to be minister of the said parish, and appointing the said Presbytery to proceed to moderate in a call for settling the said parish of Rathen, affirmed, and the said Presbytery ordered, betwixt and the first of August next, to proceed to the foresaid moderation of a call, admitting Mr. Largue upon the lect, and take other proper steps towards the comfortable settlement of that parish ; and in case of their neglecting, the Synod is ordered to take proper measures for having this sentence executed. And the Commission is instructed to determine in any process touching the settlement of Rathen. And the Assembly declare their dissatisfaction with the said Presbytery's conduct.

The sentence of the Synod of Lothian and Tweeddale, affirming a judgment of the Presbytery of Edinburgh, appointing the moderation of a call of heritors and elders of the parish of *Liberton* to Mr. John Jarden, probationer, to be assistant-minister to Mr. Samuel Semple during his life, and successor to him, as minister of the said parish, after his death, affirmed.

The sentence of the Presbytery of Dingwall, refusing to transport Mr. Murdoch M'Kenzie minister of Contane, to Dingwall reversed ; and the said Mr. M'Kenzie is transported to the said town and parish of Dingwall, and the foresaid Presbytery appointed to admit him minister of Dingwall, betwixt and the first day of August next, with certification.

The sentence of the Synod of Fife, approving a judgment of the Presbytery of Kirkaldy, laying aside a pre-



sentation from the patron, and a call of the magistrates, council, and some others of the town and parish of Kirkaldy, to Mr. George Kay, minister at Collessie, to be first minister of *Kirkaldy*, and translating Mr. David Marshall, present minister in Kirkaldy, to the first charge and benefice vacant by the death of the late Rev. Alexander Adams, affirmed.

The differences betwixt the laird of M'Kinan and the minister of Strath, concerning payment of bygone stipends, church manse, &c. being made up, and no complaint since offered from that country, except that one Mr. Kelly, a Popish priest in Cana, had lately attempted to insult the minister in the exercise of his office, the procurator and agents for the Church are appointed, as they see cause, to use legal diligence for preventing such insults.

The orders of the late Commission for £60 to Mr. John Currie, minister at Kinglassie, *for his writings published in vindication of this Church*, approved.

A resolution that no *viaticums* be granted to Commissioners from any Presbytery, above six in number, and not to them, unless they live at an hundred miles distance from Edinburgh, and their stipends be under 800 merks yearly, and that the allowance be restricted to £6 sterling. This extends only to the Presbyteries of Mull, Abertarph, Tongue, Kirkwall, Cairston, North Isles; but in consideration of the present circumstances of the Presbyteries of Gairloch, Skye, Long Island and Zetland, they be excepted from this rule.

Overture to Presbyteries, to give their opinion upon what relates (in the Form of Process or other Acts) to the manner of purging of scandals.

Overture about members of inferior judicatories, judging in causes appealed from them to superior courts, transmitted to Presbyteries.\*

Overture about licensing probationers, re-transmitted to the several Presbyteries.

Reference to the Commission, finally to determine the appeals of Messrs. Gilbert Man minister at Monedie, and Alexander MacCulloch minister at Cluny, from a sentence of the Synod of Perth and Stirling, ordering the members

\* It originated with the Synod of Lothian and Tweeddale, and proposed that in appeal cases the members of the inferior courts should not be considered as parties; but it fell to the ground next year.

of the Presbytery, who were present at Mr. Man's ordination, to be rebuked for their conduct, in applying to the Sheriff of Perth, for ordering a process of ejection to be carried on against the late incumbent minister's relict, for her not removing from the manse and office-houses.

Reference to the Commission, to consider an overture about turning some passages of the Old and New Testament into metre, in order to be used in churches as well as in families, and take the assistance of learned divines who have employed their time and pains on subjects of that sort, and report their opinion to the next Assembly.

The Synod book of Fife, attested, with a disapprobation of that Synod allowing to be recorded in their books, a protest and dissent entered by Mr. George Gillespie, one of their members, against the sentence of the Commission passed in the settlement of the parish of Ceres.

The business of this Assembly being finished, the rolls of the members were called over, and the absents marked ; and the Assembly ordered the clerks to transmit to the several Presbyteries, accounts of the attendance of their respective representatives in this Assembly, on the diets of the same, to the end, That such as have been absent, without a relevant excuse, may be censured.

*May 25.* The Assembly was concluded with prayer, and singing of Ps. cxxxiii. and the blessing.

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## 1742.

THE General Assembly met May 6th, and Mr. Thomas Tullideph, Principal of St. Leonard's College, St. Andrew's, was chosen Moderator. The Earl of Leven was Commissioner.

The Presbyteries of Dunfermline and Kirkaldy were ordained to proceed, according to the rules of the Church, to the planting of the kirks of Dunfermline, Burntisland, and Orwel (still possessed by Messrs. Ralph Erskine, James Thomson, and Thomas Mair, three seceding ministers, though they were deposed by the Assembly, 1740), and to crave the assistance of the civil power, if necessary ; for which purpose, the Assembly appointed let-

ters to be written to the Marquis of Tweeddale, one of the principal Secretaries of State, to Mr. Robt. Craigie, his Majesty's Advocate, and to the magistrates in whose jurisdictions the respective parishes lie, for their concurrence. And the Commission is empowered to determine any question that may arise in planting the above kirks.

The Assembly passed the following sentences in private cases :—Sustained a call to Mr. John Ferrier, minister at Largo, to be one of the ministers of the Canongate ; and also found a call to the same gentleman to be minister of Falkirk, preferable to another call from that parish to Mr. John Muirhead, minister at Glassford.—Transported Mr. Murdoch Mackenzie from Dingwall to Inverness.—Concurred with a call to Mr. James Yair, minister of the Scots congregation at Campvere, to be minister of Dalziel, and the same ordered to be laid before the Presbytery of Edinburgh, with a view to his transportation.—Sustained a call to Mr. Joseph Pitcairn, probationer, to be minister of Carnbee\*, preferably to another call to Mr. John Storer, probationer, which had been sustained by the Synod of Fife.—Sustained a call to Mr. Thomas Dow, probationer, to be minister of Bervie, preferably to another call proposed to be given to Mr. Jas. Mollison, probationer.—Affirmed the sentence of the Synod of Merse and Teviotdale, settling Mr. James Hume, probationer, as minister of Bowden ; but rebuked the Synod for not admitting the elders who were of new chosen by the respective sessions, to sit and vote in the Synod. Against this settlement, Dr. Wishart, Principal of the College of Edinburgh, gave in a dissent, to which five members adhered.

It was at this Assembly that the noble scheme of the *Ministers' Widows' Fund* originated. The Assembly of 1718 had recommended that every minister in Scotland should dedicate the tenth of his stipend, for *one year*, for the relief of the widows and orphans of the ministers of the Church,—the money so collected to be turned into a stock and only the interest distributed. But so inoperative did this recommendation prove, that we find it renewed,

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\* Notwithstanding the judgment of the Assembly of 1740 (see p. 20), the Presbytery of St. Andrews adhered to their opinion as to Mr. Nairn's presentation and call, which seem ultimately to have been withdrawn.

first in 1728, and again in 1735, and apparently with the same results. The state of many deceased clergymen's families may be judged of from the fact, that there seems to have been every year a collection for "the relicts or children of ministers," in the Assembly House.

Though the merit of devising and maturing the present scheme belonged to Dr. Alexander Webster of the Tolbooth Church, Edinburgh, he was not a member of this Assembly; but it was probably with the view of giving him the opportunity of stating and explaining his views, that a special meeting of the committee for overtures was appointed to be held on the evening of Saturday, May 8th, "for receiving any schemes or proposals that may be offered for raising a fund for the widows of ministers," at which meeting (the intimation bore) "any member of the Assembly or minister of this Church may be heard." Accordingly, on Friday the 14th, the committee of overtures transmitted to the Assembly an overture and scheme which was agreed to, and ordered to be printed separately, and transmitted to Presbyteries. The scheme itself was considerably modified afterwards; yet as the document possesses some historical value, and is not to be found in the printed Acts of Assembly, we shall present it entire.

*AN OVERTURE and SCHEME for providing a yearly annuity to Widows of Ministers of the Established Church of Scotland.*

The General Assembly, taking into their serious consideration the advantage of providing the widows of ministers *hereafter dying*, so long as they remain *unmarried*, in a *yearly* annuity; and judging that £20 sterling, to each of them, will answer this good purpose: and having had laid before them a list from the *whole* Presbyteries of *Scotland*, two or three only excepted, containing an account of how many ministers have died since the first of *March* 1722, how many of them left widows, how many widows are still in life, and how many of them remain unmarried; DO FIND, That, according to these accounts, about 27 ministers die *yearly*, whereof 19 leave widows; and that at present there are in life 304 widows, whereof about 280 are still unmarried: and this they compute upon as the number of widows which in time coming are to be provided for by this scheme. But, in regard of the *annat*,



and the arrear of stipend that may be supposed due and unpaid at the incumbent's death, which may aliment widows and family for the *first year* of their widowhood, it is designed, that they should only enter upon this fund at the second *Whitsunday* or *Martinmas* after their husband's death ; so that from this whole number of 280 *unmarried widows*, there will be 19 still, who being in the *first year* of their widowhood, are not entitled for *that year* ; consequently 261 is, in all probability, the utmost number that will be to provide at any time.

But next, as the widows only of such ministers, as are now living, are, upon their death, from year to year, to enter upon the designed provision ; so, in the *first year*, there will be none to provide ; in the *second*, only 18 or 19 ; and, in each subsequent year, 18 are to be added, till they amount to the full number of 261.

The Assembly overture to the several Presbyteries, that the fund for this purpose be from year to year imposed, levied and applied, in the method following :—

I. That humble application be made for the *aid* and *authority* of an *act of Parliament*, to constitute as their *Commissioners* (who are notwithstanding to be accountable to the General Assembly) the reverend the ministers of the *Presbytery of Edinburgh*, and their *successors* in office, whereof nine shall be a *quorum* ; and to *empower* and *enjoin* the said ministers, as *trustees*, yearly to *assess* every *stipend* or *salary* belonging to ministers, and that in *vacancies* as well as when the charge is full, in an *equal sum*, not exceeding £4 sterling, as shall answer to give every minister's widow, remaining unmarried, £20 sterling yearly, and as shall answer for the expense of management, the said expense to be determined by the *General Assembly* ; and to *empower* the said *trustees*, to appoint *collectors* for uplifting the sums yearly imposed, from the respective ministers, or out of the first and readiest of the stipends of each parish, by the like powers and remedies as are competent by law to the respective incumbents for their stipends ; and to give warrant for general letters issuing out of the Court of Session, upon the act of the said *trustees*, at the instance of such collectors, for recovery of the said *annual collection* ; and, in case the letters shall be found orderly proceeded, that the suspender shall be decreed to pay double costs of suit.



II. If the unmarried widows shall be more in number, than that each of them can have the foresaid annuities of £20 by the assessment not exceeding £4, that, in that case, the *trustees* be *empowered* and *enjoined*, as above, *additionally* to assess those ministers which have been *first* ordained, or *first* admitted to a benefice the preceding year, *equally*, so as to make up the deficiency of the said annuities, in a sum not exceeding £20 sterling each; the said sum being to be a burden upon them only for the *first* year of their incumbency; afterwards, they are to pay no more than others.

III. In case these two assessments shall not answer for the said annuities, that the *trustees* be *empowered* and *enjoined*, *additionally* to assess the stipends and salaries of the yearly values following, in sums not exceeding these respectively after-mentioned, viz. stipends and salaries of £100 sterling yearly, and above, in £2 10s sterling yearly; those of £80 and above, below £100 in £2; those of £70 and above, below £80 in £1 10s; and those of £60 and above, below £70 in £1, the act of Parliament to rank each benefice in its proper class, according to the direction in article V. below; the whole of this *additional* assessment on each higher class, in the order in which they are here placed, being always found insufficient, before the next lower successive class be *additionally* assessable in any thing; and all the stipends and salaries of each class to be *taxed* equally.

IV. That a yearly list be transmitted from every Presbytery, attested by the *Moderator* and *Clerk*, to the General Assembly, and *a like list*, attested *in like manner*, to the *trustees*, of all the ministers who have died in their respective bounds, since the last or preceding General Assembly, and what number of them left widows, and also what number of widows, entitled to this fund, are within their bounds; that there may be *proper evidence* for proportioning the assessments. And the *trustees* are to choose a *general collector*, to receive the sums raised by the *particular collectors*, betwixt *Whitsunday* and *Martinmas* yearly, which *general collector* is to pay, at *Martinmas*, to the several widows, or their order, at *Edinburgh*, their *respective annuities*, upon production of a certificate from the *Presbyteries* within whose bounds they reside, of their being widows entitled to this fund, and remaining

unmarried. The *particular* and *general collectors* to be chosen so as the money may be uplifted and applied with the least expense.

V. To ascertain the value of stipends where all or any part of them are paid in *victual*, the rate of such victual is to be computed at the ordinary price to which it is converted, in the case of the sale of lands, in the respective shires. If payable in *vicarage* not valued, the value thereof is to be ascertained by the *Presbytery*, upon a medium of its value for the preceding seven years; if in *parsonage-teinds*, by the same rule, or by the *tack-duty*, when set in tack. And if any variation shall happen in the extent of stipend actually payable to ministers, then, upon proof of such alterations, the incumbents are to be subject to contribute to this fund, in proportion to the *augmented* or *diminished stipend* only, according to the above *conversions* and *proportions*.

VI. That the widows may be more absolutely secured of having their provisions made effectual to them, it is to be provided, That if the *trustees* shall fail or neglect to execute the powers vested in them, *that is to say*, shall *fail* to assess the *several* ministers in the quotas whereto they are subjected, or shall *fail* to appoint *collectors* for uplifting the said quotas, or shall *fail* to appoint a *general collector* for receiving or uplifting the said quotas, then the widows entitled, and not receiving their annuity, shall have *an action* for the sums due to them, against the *trustees* who shall refuse or neglect so to *assess* and *appoint*; and in case the said *collectors*, being appointed by the *trustees*, shall *fail* duly to execute their *respective* trusts, then the foresaid widows shall have *an action*, not *against* the *trustees*, but *against* these *several collectors*, who shall be liable to *exact* diligence, and find proper caution: and in case the said widows shall prevail in an action, either against the *trustees* or *collectors*, they shall be entitled to double costs of suit. And it is also to be provided, That the *trustees* shall have *an action* against the *several collectors*, for any *malversation* or *neglect* in their *office*.

VII. Any minister *dimitting* or *resigning* his charge, his widow, notwithstanding, is to be entitled to the benefit of this fund, as if he continued minister of the parish, provided that, on or before dimission, he give *proper se-*

*curity* for payment, and do actually pay his *yearly* assessment during his life. This privilege also to be allowed upon the same terms in case of *deposition*.

VIII. Though children cannot be directly brought into this scheme, without greatly embarrassing it, and making the widows' annuities a *small matter*; yet the provision for widows will generally redound to the benefit of the children. Besides, the present funds for support of widows and children belonging to Presbyteries and Synods, may, if the contributors please, be allocate by these Synods and Presbyteries, to the children *only* within their bounds, who are destitute of *father* and *mother*, under the age of fifteen, and whose fathers have been *contributors* to these funds. In this case it will yield them a very reasonable maintenance. And if the contributors incline, they may allow others still to contribute, and entitle their children to the benefit accordingly. But these funds have nothing to do with the *present scheme*, and the hint is only given for satisfaction of such as desire to know how orphans may also be provided.

It is proposed, that the scheme *commence*, and the burden of the *yearly tax* be laid on the stipends and salaries, by the *trustees*, at the Assembly 1743, paid at *Michaelmas* thereafter; and the widows of the ministers dying after said *Michaelmas* to be entitled.

The *Assembly* do transmit this *overture* and *scheme* to the *several Presbyteries*, and require them to send a *written* report, signed by their *Moderator* and *Clerk*, to the *Clerk* of the *Assembly*, of their resolution thereupon, *before* the meeting of the *Commission*, in *November next*; and where there is not an *unanimous* agreement, they require the said *Presbytery* to send an *authentic* document of the *names* and *places* of such ministers as dissent: and that where a *Presbytery* proposes any *alteration*, they do expressly signify, whether they subject such alteration to be *cognosced* or *determined* by the *Commission*, or if they insist on such *alteration* being made, in order to their consent; and what *number* of the *Presbytery* do so insist. And the *Assembly* likewise require the *Presbyteries* to send a list of the extent of their *several benefices*, according to the method of ascertaining their value above directed.

And the Assembly do further require all this, under *express certification*, That such *Presbyteries* as do not signify their opinion in writing to the *Clerk* of the *Assembly*, before meeting of the said Commission, they shall be held as *acquiescing* and *consenting* to what is here proposed.

And the Assembly do hereby invest the said Commission, in *November*, with their *full powers* to receive in the said reports: and if the Commission shall find, that the overture has been approved by the *majority* of ministers of this Church, they empower and appoint the said Commission humbly to petition the King and Parliament, at their next meeting, to enact as above.\*

An Act disjoining the Presbytery of Long Island, and erecting the same into two distinct Presbyteries, viz., those of *Lewis* and *Uist*; and further ordaining, that the Presbytery of *Lewis* shall, at the first meeting after their erection, appoint the ministers of *Starnavoy*† and *Uig* for that year, as their correspondents; and, at their first meeting in the ensuing year, the ministers of *Lochs* and *Barfas*, and so on in all succeeding years by turns, to attend the meeting of the Presbytery of *Uist* at *Scarista* in *Harris*, when, upon any emergency, they shall be called to meet with them there; and do appoint, that the Presbytery of *Uist* in like manner appoint the ministers of *Harris* and *Bara* for the first year, and the ministers of *North* and *South Uists* for the next year, and so on in all subsequent years by turns, as correspondents to attend the meetings of the Presbytery of *Lewis*, at *Scarista* in *Harris*, as the importance of any affair depending before them shall require.

Act for the better attendance of members on the Commission of the General Assembly, and enjoining that Presbyteries, after every quarterly meeting of the Commission, take account of the attendance of their members, and enquire into the reasons or excuses of such as have not attended, and censure them who have been absent without sufficient cause.

An interim act and overture about the manner of *licensing probationers*. This act has been superseded by others since passed (especially that of 1813), but

\* The above Overture and scheme was accompanied with "Reasons in support of it, drawn up by a Committee appointed for that purpose."

† Sic. in orig. meaning *Stornoway*.



in some respects it demanded a higher degree of literary attainment than what is now commonly required, *e. g.* the translation of the Hebrew Bible *ad aperturam libri*, sustaining a thesis and dispute on some controverted head of divinity, &c. The following clause regards the *private* trials.

“ When the Presbytery, after serious enquiry and mature deliberation, shall agree to take the proposed candidate on trials, before his entry thereto, the General Assembly appoints them, by themselves, or a committee of their number, to take a private and previous trial of the progress he has made in the Latin, Greek and Hebrew languages ; in the study of philosophy, and his knowledge in divinity, theoretical, polemical and practical, especially such points as shall be matter of the present debates and controversies ; his acquaintance with the holy scriptures, and what impression he has of religion on his own soul ; his knowledge of the constitution of the primitive christian church, and also of our own, and of the government and discipline thereof ; and of his spiritual wisdom to deal with the several sorts of persons he may have to do with, namely, atheists, despisers of religion, careless and secure persons, weak and tender consciences, and others, wherein the great difficulty of the pastoral charge lies ; and particularly anent his ends and intentions in entering upon the preaching of the gospel ; and that they appoint three or four of their number for managing the said trials. And the General Assembly further appoint the several Presbyteries concerned, to take special care that these trials be not managed in an overly and superficial manner, but as in the sight of GOD, and our LORD JESUS CHRIST, the alone King and Head of his Church ; and either to reject, or delay to further trial such as are found not sufficiently qualified.”

The overture about members of inferior judicatories, judging in superior courts in cases of appeal from the sentence of such inferior judicatories, dropt.

The overture concerning the manner of purging scandals, transmitted formerly, dropt.

A committee appointed to make a collection of *translations* into English verse or metre, of passages of the holy scriptures ; or receive in performances of that kind, from any who shall transmit them ; and the Presbytery



of Dundee, and Synod of Angus, to transmit to the committee at Edinburgh, what collections they have made, or shall make, and that the committee report to the next General Assembly; and, meantime, take advice of the Commission, and to meet in the Society's hall on the Tuesday before each quarterly meeting of the Commission, and at other times and places as they see cause, any three of them to proceed.

Reference to the Commission to judge in an appeal of Mr. Archibald MacColm from a sentence of the Synod of Lothian and Tweeddale, affirming a judgment of the Presbytery of Edinburgh, refusing to sustain a license to preach the gospel, obtained by him in England, or to employ him as a probationer in the bounds of said Presbytery, in virtue of such license.

The sentence of the Synod of Lothian and Tweeddale, affirming a judgment of the Presbytery of Peebles, declaring, That in the present circumstances of the parish of *Manor*, they could not proceed to the settlement of Mr. Andrew Plummer, probationer, as minister of that parish; and recommending to the said Presbytery to deal in the most prudent manner with all concerned, in order to bring about the comfortable settlement of the said parish, affirmed unanimously by the Assembly; and the Moderator ordered to write letters to the Earl of March, patron of that parish, and to his curators, to give them notice of this sentence, and entreating they would not insist on their presentation in this case.

Report of the committee named to consider several manuscripts in the hands of Mr. Robert Woodrow, minister at Eastwood, read, and, according thereto, £30 sterling is ordered to be paid to the said Mr. Woodrow for certain volumes of manuscripts mentioned in said report, and these volumes deposited in the Clerk's hands, that any minister or elder of the Church may have access to peruse them.

Former orders concerning public libraries, registers and manuscripts, about the history of this Church renewed; and a committee appointed to enquire thereanent; and particularly at the representatives of Mr. Samuel Semple, minister at Liberton, deceased, *what progress he made in the history he was encouraged to write of this Church*, and what registers or manuscripts he left behind him.

The petition of the parish of Lochbroom, and Presbytery of Gairloch, appellants, from a judgment of the Presbytery of Tayne, resolving to proceed to the admission of Mr. Donald Ross at Lochbroom, to be minister of *Fearn*, upon a call of that parish to him, sustained by the Commission of the last Assembly, and an act of transportability granted in his favours by the said Presbytery of Gairloch, in *anno* 1740, without calling the parish of Lochbroom, with a reference of the cause by the Synod of Ross, heard, and the said Presbytery of Tayne's after-procedure, in actually admitting Mr. Ross at *Fearn*; and the Assembly affirmed the said settlement of Mr. Donald Ross as minister at *Fearn*.\* But the Assembly declare their dissatisfaction with the Presbytery of Gairloch, in granting acts of transportability to ministers in their bounds, without calling upon, and hearing the parishes in which they are settled; and declare such acts, to ministers now in their bounds, of no effect, unless they call and hear the parishes concerned.

*May 17th.* The Assembly was concluded with prayer, and singing Ps. cxxxiii. with the blessing.

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#### COMMISSION MEETING IN NOVEMBER.

THE 10th of November, which was observed as a national fast by the King's appointment, happening to be the day on which the Commission of the General Assembly should have met, that reverend court did no business till the day following. On the 12th, they took under consideration the scheme for a provision to ministers' widows, and passed an act in substance as follows:—"Find, by the

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\* Not long after Mr. Ross's settlement a fearful calamity befell his congregation. "On Sunday the 10th of October (1742), in the time of worship, the roof and part of the side-wall of the church of *Fearn*, in Ross-shire, fell suddenly in, occasioned by the violence of a storm, or, as some say, by lightning. It was a very old fabric, built in the Gothic taste, and covered with flagstone. The gentry had their seats in the niches, and by that means their lives were saved; as was the minister, Mr. Donald Ross, by the sounding-board's falling on the pulpit, and his falling down below it. The area of the church was covered with the rubbish;—vast numbers were wounded, and forty dug out, whose bodies were so smashed and disfigured, as that they could scarcely be known; so that they were buried promiscuously without ceremony."

returns made by Presbyteries, that 600, being near two-thirds of the ministers of the Church, do approve of the scheme. But, in regard several alterations are proposed by the greatest part of those who approve, tending to obviate many weighty objections made to it, particularly, the heavy tax laid upon entrants, the too great advantage it gives to present incumbents, the great burden it brings upon their successors, and that it still leaves many orphans of ministers in deplorable circumstances ; as the Commission are not empowered to make these alterations, however necessary and good they seem to be ; as some Presbyteries plead for a delay, as others have sent up no reports, and as very few have given in a list of the value of their several benefices ; nay further, as, by the Parliament's meeting sooner than was expected, the time for receiving in private bills might be elapsed before the Commission could apply to have the scheme turned into an act : on these considerations they find themselves under absolute restraints from proceeding at present to make the application. But having it greatly at heart to prosecute the design with the utmost diligence, and being desirous that the scheme may yet become more unexceptionable, more universally useful, and gain an unanimous approbation, they nominated a committee, whereof seven, five of them ministers, to be a quorum, (recommending to all the ministers in Scotland, as they have access to join with them) to consider the several returns already sent, or that shall be sent up by Presbyteries ; and, from all the amendments proposed, to form a scheme which shall appear to them upon the whole best calculated to answer the good design ; and to transmit the same without loss of time, to be considered by the several Presbyteries ; who are desired, if possible, to report their opinion of it to the Commission in March. And those Presbyteries who have not yet sent up a report, or given in a list of the value of their several stipends, are appointed to transmit the same immediately to the Clerk of the Assembly, to be laid before the committee ; this appointment to be notified in the newspapers."

1743.

THE General Assembly having met May 12, Mr. Robert Wallace, one of the ministers of Edinburgh, was chosen Moderator. The Earl of Leven was his Majesty's Commissioner.

They had before them the scheme for providing *an annuity for the widows* and a *stock to the children of ministers*. The committee appointed by the November Commission had met to rectify the scheme first proposed, and had transmitted copies of the amended scheme to Presbyteries. This was now considered in a committee of the whole house, and with several new alterations, was reported to the Assembly; who, after reasoning, approved of them, and resolved to apply for an Act of Parliament for making the scheme effectual; but with this proviso, that the taxes should not exceed the sums, nor the produce of them be applicable to any other purposes than those thereby proposed; and they directed the Commission, if they should find encouragement to hope for success, to cause such application to be made, in name of the Assembly; the expense to be defrayed out of the Church's public money. Upon a petition of the Principal and Professors of the University of Edinburgh, it was agreed to allow them to accede to this scheme in the same terms as ministers do; and at the same time it was declared lawful for the other universities likewise to accede.

A petition of the Presbytery of *Middlebie* consisting of eleven parishes, with a consent from each Synod and Presbytery concerned. Agreeably to the desire of this petition, the Assembly dissolved the Presbytery of *Middlebie*, and instead thereof erected two new ones: one of eight parishes, to be called the *Presbytery of Annan*, composed of the six parishes of Annandale which belonged to *Middlebie Presbytery*, viz. Annan, Hoddam, Dornock, *Middlebie*, Kirkpatrick and Graitney, and the parishes of Cummertrees and Ruthwel, disjoined from *Lochmaben Presbytery*; and the other of six parishes, to be called the *Presbytery of Langholm*, composed of the remaining five parishes of *Middlebie Presbytery*, in Eskdale, viz. Langholm, Ewes, Westerkirk, Eskdalemuir and Canonbie, and the parish of Castleton, disjoined from *Jedburgh*.



Presbytery; the ordinary meetings of each to be in the town from whence it has its name.

On May 14th, came on the settling of the offices of *Agent for the Church and Sub-Clerk to the Assembly*. This proceeded on a motion to inquire by what right Mr. Robert Macintosh exercised these offices since the death of Mr. Nicol Spence, which happened a few months before; and in order to have a clear view of the affair, Mr Spence's petition, praying that Mr. Macintosh might be conjoined with him in these offices, and appointed his successor, was ordered to be printed, together with the act that passed thereupon; which is as follows:—Edinburgh, May 19, 1738. The General Assembly, having heard and considered the said petition, did unanimously, and hereby do nominate, constitute, and appoint him, the said Robert Macintosh, to be conjunct agent for the Church, and Sub-Clerk to the General Assembly, and Commissions thereof, with the said Nicol Spence; and in case he shall be the survivor, do enact and declare, that he the said Robert Macintosh, succeed in the foresaid offices, and have right to the whole salaries, fees, profits and emoluments thereof, as the said Nicol Spence does enjoy the same." And the record bears, that Mr. Macintosh being called, and the Moderator having administered the oath *de fide* to him, he was received accordingly. On this there was a long debate, chiefly on this question, Whether the Assembly could legally appoint a successor to Mr. Spence when there was no vacancy in any of the offices possessed by him, he having made no resignation? and in the end it was agreed to state the question thus, is there *any vacancy* in the offices of Agent and Sub-Clerk? reserving to the Assembly to determine whether the same were totally vacant, or not. And the vote being put, *Vacancy*, or *Not*? it carried *Vacancy*. Then the question being put, Is there a *total Vacancy* or *Not*? it carried *Not*. Upon which, a committee was appointed to consider how the one half of the said offices thus found vacant, should be supplied; and they brought in an overture; which requiring Mr. Macintosh's concurrence, he declared that he would conduct himself agreeably to what the Assembly should determine. Then the overture, upon the question put, being approved of, Mr. Macintosh judicially resigned the half of the offices to



which he was found intitled, that the overture might be put in execution : and the Assembly nominated and appointed him and John Bailie, writer to the signet, conjunctly to the said offices, with the survivancy of the whole to the longest liver of them two solely ; as in the following act :—" Edinburgh, May 19, 1743. The Assembly did, and hereby do nominate, constitute and appoint Robert Macintosh and John Bailie to be conjunct Agents to this Church, and Sub-Clerks to the General Assemblies and Commissions thereof, and committee for managing the royal bounty : and that they have equal right to the stated salaries of the said offices. But the Assembly order and appoint, that the exercise of the office of Sub-Clerk and Clerk to the royal bounty be in Mr. Macintosh, and executed by him ; and that the exercise of the other office, of Agent to the Church, be executed by the said John Bailie : And that the casual emoluments attending the said sub-clerkship do belong to, and be enjoyed solely by Mr. Macintosh ; and that the casual emoluments of the said agency be solely enjoyed by the said John Bailie : And that it shall be in the power of the Assembly to appoint any one of them to execute any part of either of the offices, from time to time, in such manner as they shall direct : And that in case of sickness, necessary absence, or inability of either, that the other be obliged to act in both or either offices, during such sickness, necessary absence, or inability : And that the survivancy of both offices be in the longest liver of the two solely." Both accepted, and respectively took the oath *de fidei*, which was administered to them by the Moderator.

The General Assembly appoints, That all questions concerning the *settlement of parishes*, not already depending before this Assembly, but that may be brought before the Commission, in pursuance of a general reference, shall not be decided by them otherwise than by appeal or reference from the Synod within which the vacant parishes lie.

There being presented and read to the General Assembly, an Act of the *Synod of Perth and Stirling*, (to whom it was remitted by last Assembly to agree upon their stated places of meeting and report) appointing their ordinary fixed meetings to be at *Perth* in October, and at *Stirling* in April yearly *per vices*, in all time coming, the

General Assembly having heard the said act, interpose their authority thereto, and appoint the meetings of the said Synod accordingly.

The following overture being proposed, viz. That hereafter it be an instruction to the Commission, that all causes brought to the Assembly by appeal directly from Presbyteries, and not decided by the Assembly, be determined by the Commission at their meeting in May, or otherwise be remitted to the Synod of the bounds, and receive their judgment from which the same may be brought to the Commission in November or March: The General Assembly transmit the said overture to the several Presbyteries for their opinion thereupon.

The cause with relation to the planting the parish of *Tannadice*, brought by reference and appeal to this Assembly, from the Synod of Angus and Mearns, before whom the same came by several appeals from the Presbytery of Forfar, taken by both parties in the said parish, callers of Mr. John Weath and Mr. Robert Young, probationers, heard, with the complaint of the callers of Mr. Young, against the said Presbytery, for their proceedings in settlement of the said Mr. Weath, as minister of Tannadice, notwithstanding of several appeals taken from certain steps of their procedure; and the Assembly, by a vote, did affirm the said Mr. Weath's settlement, but declared their dissatisfaction with several steps of the said Presbytery's conduct in this affair.

Heard a petition of the Earl of Cromarty, patron, and other heritors, elders and heads of families, of the parish of *Lochbroom*, complaining of the proceedings of the Presbytery of Gairloch, who first appointed the moderation of a call, without intimating the same to the patron and principal heritor ten free days, before they proceeded thereto; and thereafter sustained the call to Mr. Roderick MacKenzie\* to be minister of that parish; and heard also the said Presbytery's proceedings of the 9th of February last, in actually admitting the said Mr. MacKenzie as minister at Lochbroom, with appeals therefrom; and the Assembly did *nemine contradicente*, reverse the said settlement, and appointed the Presbytery of Gairloch to proceed to

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\* This person afterwards became the pastor of a Dissenting congregation in England, and presided at the admission of Mr. Thos. Boston at Jedburgh, having ultimately joined the Relief or Secession.

the planting of the foresaid parish, according to the rules of this Church ; and in order thereto, appointed that the said Presbytery name a day for the moderation of a call to one to be minister of the said parish, betwixt and the first of August next ; and that intimation thereof, be made from the pulpit of the church of Lochbroom, twenty free days before the day fixed for the foresaid moderation ; and the Assembly declared their dissatisfaction with the said Presbytery's conduct in the said settlement ; and appointed a letter to be wrote to the Earl of Cromarty, notifying the same to him, and the Church's sense of his Lordship's manner of using his patronages, and hoping for the continuance thereof.

The appeal of Kenneth Gordon of Cluny, patron, and others of the parish of *Cluny*, callers of Mr. William M'Kenzie, probationer, to be their minister, from the sentence of the Synod of Aberdeen, sustaining and concurring with a call of others of the said parish, to Mr. Robert Michie, probationer, to be minister of the said parish, and appointing the Presbytery of Kincardine O'Niel, to proceed to his settlement therein, heard, and the said sentence affirmed, and the Presbytery appointed to proceed accordingly.

The sentence of the Synod of Glasgow and Ayr, sustaining an appeal of Sir Thomas Wallace of Craigie, from a sentence of the Presbytery of Ayr, who had sustained Mr. Blair of Adamton, in the present instance, as sole patron of the united parishes of *Monkton* and *Prestick* ; and appointed a call to be moderate to Mr. Wm. Walker, probationer (Adamton's presentee), alone ; and ordering the Presbytery to moderate in a call to Mr. George Bantyne, probationer, presented by the said Sir Thomas Wallace, to be minister of the foresaid parish, and Mr. Walker to supply the vacancy there, reversed, and all that followed in consequence of it ; and the said sentence of the Presbytery of Ayr affirmed, and they appointed to proceed to the moderation of a call to the said Mr. Walker alone.

A Commission from the burgh of Selkirk, to their representative in this Assembly produced, not attested by the Presbytery, by reason that certain fees demanded by their Clerk had not been paid, sustained, and a letter ordered to be sent to the Presbytery, inquiring *how any fees came to be demanded for such their attestations.*

The report of the visitors of the register of the Commission of the late General Assembly, brought in, and their book ordered to be attested ; with a reservation as to their decisions past, with respect to Mr. George Buchanan, late minister at *Drymen*, deposed ; Mr. John Kennedy, probationer, deprived of his license ; about planting the parish of *Badernock* ; and their not transporting Mr. Nimmo from Johnston, to be minister at *Moffat*.\*

A call to Mr. James Muirison, minister at Edziel, presented by the Crown, to be minister at *Kinnell*, sustained ; and the Presbytery of Aberbrothock appointed to proceed in a process towards obtaining his transportation and settlement at Kinnell, according to the rules of this Church, and several dissents offered against the said judgment.

The overture and interim act passed last year, with respect to the manner of *licensing probationers*, continued in force another year ; and remitted to the several Presbyteries, to give their opinion on an amendment proposed to be made thereto, viz. that as to the time passed in studying divinity, there be no exception made in favour of students who have *Gaelic*.

Complaint of heritors, elders, and others of the parish of *Badernock*, against the late Commission's sentence, sustaining a call of some of that parish, to Mr. John Colquhoun, probationer, his Majesty's presentee, to be minister thereof, dismissed ; and another complaint of the callers of Mr. Colquhoun, against the Presbytery of Dumbarton, for not executing the above sentence of the Commission, heard, and the Presbytery found in this case, not censurable for the delay, in respect of the complaint against the said sentence of the Commission ; but are now ordered to proceed to the trials and settlement of the said Mr. Colquhoun, as minister of Badernock, according to the rules of the church.

The appeal of the parishioners of *Falkirk*, callers of Mr. William Leechman, minister at Beith, to be their minister, from a sentence of the Synod of Lothian, affirming a judgment of the Presbytery of Linlithgow, sustaining a call of the said parish of Falkirk, to Mr. Robert Speirs, minister at Linlithgow, to be their minister, heard, and the said sentence reversed, and both calls laid aside ; and reference to the Commission, to determine any question about the settlement of Falkirk.

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\* None of these decisions of the Commission seem to have been disturbed.



The sentence of the greater excommunication pronounced by the Presbytery of Edinburgh, against Mr. David Paterson,\* late probationer for the ministry, but deprived of his license, for the scandals of adultery, and celebrating marriages irregularly ; and the like sentence pronounced by the said Presbytery, against George Gib, cordiner in Caltoun, near Edinburgh, and Mary White, spouse to James Gowan, wright, for adultery and bigamy, appointed to be intimated from the pulpits of all the Churches within Scotland, agreeable to Act 9th, Assembly 1704.

Reference to the Commission, to determine in a cause brought by appeal of David MacMurtry in Daughty, from a sentence of the Synod of Glasgow and Ayr, affirming a judgment of the Presbytery of Ayr, in a cause brought before them, wherein he is accused, as being guilty of adultery with Margaret Logie, in which the Presbytery rebuked him, for his prevarication and falsehood before them ; and appointed a narrative of their whole procedure against him, to be intimated from the pulpit of the Church of Barr.

Recommendation to the Synods of Angus and Mearns, Aberdeen, Fife, and Perth and Stirling, to make a collection at all the church doors within their bounds, for redemption of Robert Anderson, son to James Anderson, in the parish of St. Vigians, who is detained *captive at Tangiers* ; and to transmit the money so collected, to the Moderator of the Presbytery of Aberbrothock.

Reference to the Commission, to determine in a cause brought by appeal, of Gilbert MacGhie, indweller in Canongate, from a sentence of the Synod of Lothian and Tweeddale, affirming a judgment of the Presbytery of Edinburgh, prohibiting him to cohabit with Jean Wood, in regard of his having been formerly married to Jean Mustard, who is still alive.

*May 23d.* The Assembly was concluded with prayer, and singing Psal. cxxii. 6, to the end—with the blessing.

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\* This degraded man after being confined in Edinburgh jail for about eighteen months for marrying persons clandestinely, was liberated by the Justices, August 19, 1749, "he having enacted himself to depart the city and liberties, and never to return, on pain of being incarcerated and kept at hard labour three years in the House of Correction."



## COMMISSION MEETING IN NOVEMBER 1743.

In the interval between the meeting of the Assembly and that of the Commission in November, the Professors in the Universities of St. Andrew's and Glasgow desired to be included in the scheme for providing for the widows and children of ministers. And the Commission, on the 9th of November, appointed Mr. Robert Wallace, their Moderator, and Mr. George Wishart, ministers of Edinburgh, to go to London, in order to make application, during the ensuing session of Parliament, for rendering said scheme effectual.

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1744.

## COMMISSION MEETING IN MARCH.

AT the meeting of the Commission (March 15, 1744,) Messrs. Wallace and Wishart reported, that the Assembly's plan for a *Widow's Fund* had, after a few alterations, which seemed fit to the wisdom of the legislature, received the sanction of Parliament and the Royal Assent; and they produced a copy of the Act of Parliament thereanent. [The Royal Assent was given March 2. The Act is under the head of 17. Geo. II., and is entitled, "An Act for raising and establishing a Fund for a provision for the widows and children of the Ministers of the Church of Scotland, and of the Heads, Principals, and Masters of the Universities of St. Andrews, Glasgow, and Edinburgh." The commencement of the Fund is reckoned from the 25th March, 1744. The above Act has been amended by other Acts since obtained.]

At the same meeting of the Commission, the country being now threatened with a war with France, and the invasion of the Pretender, they presented a loyal address to the King. [The declaration of war on the part of France was made on the 15th March, the very day on which the Commission met.]

## ASSEMBLY, 1744.

THE Assembly met on the 10th of May; and Mr. John Adams, minister at Dalrymple, was chosen Moderator. The Earl of Leven was Commissioner.

Petitions were presented, May 16th, from the King's and Marischal Colleges of Aberdeen, praying to be comprehended in the Act of Parliament for raising and establishing a fund for a provision for the widows and children of ministers, &c. That from the Marischal College was found to be a proper accession, and agreed to without dispute. But compearance was made for the Sub-Principal and four of the Professors of the King's College, against the Assembly's receiving the petition offered in name of that college.—The case was this: eight members were present at the meeting which appointed the petition to be presented, four of whom (including the Principal) voting for, and four against the petition—the Principal gave his casting vote for it.—After long pleadings, and reasoning by members, the Assembly, upon the question put, sustained the application as a proper accession. Whereupon the Principal took instruments. But the lawyer for the other party (Burnett, afterwards Lord Monboddo,) protested, that the present and succeeding members of said college should not be bound by this judgment, but should be at liberty to seek redress, as they shall see cause.

The affair of greatest importance that came before the court, was that of *Mr. William Leechman*, formerly minister at Beith, now Professor of Divinity in the University of Glasgow. Mr. James Robe, minister at Kilsyth, published an account of it, in which he alleged, That Mr. Leechman having, when a probationer, preached frequently at Glasgow, was far from being looked upon as an evangelical preacher: That he offended many good judges by his preaching in such a philosophical and abstract way, as if he had resolved the reverse of the apostle's determination, 1 Cor. ii. 2; and that some ministers gave him serious cautions and warnings concerning this: That a sermon preached by him before the Synod of Glasgow and Ayr (and afterwards published,\*) did not remove the

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\* "The Temper, Character, and Duty of a Minister of the Gospel: a Sermon on 1 Tim. iv. 16." It has been often reprinted.

discontent; for, though the mysteries of religion, and the peculiarities of Christianity, were mentioned, yet, both in prayer and sermon, it was done in such a sparing manner, comparatively with other subjects, as if they were but the less principal objects of christian knowledge and faith: That his publishing his sermon *upon prayer*, in 1743, increased the offence: And that on his being afterwards elected Professor of Divinity, the offence became more general, and was then accompanied with a deep concern, lest that election might prove of evil consequence to the purity of doctrine, and the ministry of this Church; for it was observed by many, that sermons without Christ, and consisting of morality, without that relation to the Gospel of Christ which alone can render it acceptable in the sight of God, and preachers of them were increasing; and they were afraid, that the youth taught by the author of the sermon in debate would come forth rather more exceptionable than their teacher, as is ordinary in such cases.

A short time after Mr. Leechman's admission to the divinity-chair, an elder, a member of the Presbytery of Glasgow, in his own name, and in the name of many other elders and people, informed that Presbytery, that there was great offence taken against Mr. Leechman's sermon on prayer, and desired that they would make inquiry whether there was ground for it or not. After much deliberation, and various proposals, the Presbytery appointed a committee to take inspection of the sermon, upon the *fama clamosa* there was of things offensive in it; and, in case there appeared ground for the offence taken, they were to converse with the Professor, to see what satisfaction he offered. The Committee accordingly met several times, and made remarks on the sermon, which the Professor answered; and as the two papers present a full view of the points in debate, we shall here give them *verbatim*:

REMARKS, *by a Committee of the Presbytery of Glasgow, upon Professor Leechman's Sermon on Prayer; with the Professor's ANSWERS.*

Rem. 1. The author presents God to christians, as the object of their religious worship, and particularly prayer, merely and absolutely as our Creator, without relation to Jesus Christ, which the committee conceives to be incon-

sistent with Confession of Faith, chap. 21. sect. 2. and to the Shorter Catechism, answer to the question, What doth the preface to the ten commandments teach us?

*Answer.* The author is not giving directions concerning the acceptable way of worshipping God, nor laying down any speculative principles concerning the proper object of religious worship, or the grounds of confidence in God, in the passages of the sermon referred to in the remark of the committee: all that the author asserts is a plain, and, he thinks, an undeniable fact, That, when a person is struck with a deep sense and intimate conviction of his own ignorance, his own depravity, and his utter inability to help himself, or secure his own happiness in this or in another world, he will then necessarily fly out of himself, and seek refuge in him that made him, and upholds him in being. This is a fact abundantly confirmed from observations on the world, from the natural workings of the human mind, and from the experience of mankind. This is true, not only of a Jew or a Christian, who has just notions of the divine nature and perfections; but it is true also of a Heathen, however imperfect his notions of God may be. For, whether he believes there is one supreme Being, or believes there are superior beings who can help him, he will fly to him or them in the helpless circumstances in which I have represented him as placed. This passage in the sermon is therefore only a general observation on human nature, and true in some respect in all nations and ages of the world, however different their notions of religion may be.

Now this is perfectly consistent with the doctrine of the Confession of Faith, That the propitiation and intercession of Jesus Christ can only give full consolation and perfect rest to the soul of man, under its greatest distresses. If the reverend committee will be pleased to attend to what I have said, as it stands in connection with what goes before, they will soon see that the passages referred to in our standards contain nothing contrary to what I have said; and that, in order to show that there is any inconsistency in my doctrine with the Confession of Faith, they must find out some passages of it which assert, That the deepest sense of self-ignorance, weakness, and insufficiency for happiness, will have no influence to make a rational creature look beyond itself, and wish and seek for happi-



ness elsewhere. Besides, it may be answered, That though I had given a direction to mankind in these terms, to fly out of themselves, and take refuge in him who made them, there could be nothing blame-worthy in this, since it is the known and acknowledged style of the Holy Scriptures, Psal. xlv. 1.—1 Peter, iv. 19.

*Rem. 2.* In his discourse upon the nature of prayer, in which he proposes to set it in its true light, by stripping it of every thing foreign and superfluous, and which stands in his book as a finished piece, there is no mention made of the merits and intercession of our blessed Saviour and Redeemer,—which we think is expressly contrary to Act 7, Assem. 1736. The chief design of which is, to excite ministers and preachers to guard against the great prejudice that our religion must sustain, not only by opposing, but also by neglecting and disregarding, or too superficially handling of the blessed truths of the gospel concerning Christ, and his mediation, &c.; and which Act also directs them to make it the great scope of their sermons, to lead men to Christ, and a covenant of grace, for life and salvation; and directs Presbyteries to inquire concerning the observation of this Act. It seems also not to come up to the description of prayer given in our Larger and Shorter Catechisms, which take in the name of Jesus Christ as an essential ingredient of prayer.

*Ans.* To this let it be observed, 1st, That the author has expressly fixed and determined the meaning of these words, “foreign and superfluous circumstances,” by their connection with what goes before. For he has taken notice, in the introduction, that the low and superstitious practices of well-meaning people, and the perversions of wicked and designing men, have been one ground of the contempt into which prayer is fallen among one part of the world; and *therefore*, in order to remove these causes of contempt, he proposes to describe prayer stript of all these foreign and superfluous circumstances, which have been one great cause of its falling into disesteem. The word “therefore” evidently connects the sentence in which it is inserted, with the introduction, which goes immediately before. Since then the words, “foreign and superfluous circumstances,” are mutually and necessarily explained and determined by “superstitious practices,” mentioned in the introduction, if



the reverend committee suspects that I intend to represent the doctrine of the mediation and intercession of Jesus Christ, as one of the superstitious doctrines of well-meaning men, or one of the abuses of wicked and designing men, I know no remedy for those who allow themselves to entertain such malicious and unbounded suspicions, but praying to God for them, that he may teach them not to judge lest they be judged. But as I choose rather to think, that the committee has not attended to the connection of the discourse, than that they have intended to represent me as guilty of blasphemy, by pointing out the doctrine of the intercession of Jesus as mere superstition, let it be observed,

In the 2d place, That, when the committee asserts that my discourse on the nature of prayer stands as a finished piece, they seem to mean, that, as it stands, it is a full and complete account of the doctrine of the Confession of Faith, and of the New Testament, concerning prayer. Now, that I did not intend that discourse for a complete system of the scripture-doctrines, and the doctrine of our standards concerning prayer, is evident, 1. Because it is expressly limited to one of the three parts of prayer mentioned by our standards, in the sermon, p. 4, near the bottom. 2. Because it is further restrained by the division of the discourse, in the same page; where it is not proposed to consider either the ground of acceptance in prayer, or the qualifications in the person necessary to render his prayer acceptable. Some of the qualifications of the person who prays are indeed mentioned; but, as it is only in a transient manner, they are not fully explained or illustrated, and other very essential qualifications are entirely omitted. For instance, a forgiving temper is made an essential qualification of prayer by our blessed Saviour, Matt. vi. 12, 14, 15, and yet I have not mentioned it. Now, will the reverend committee conclude, from that omission, that I intend to point it out as one of the superstitious circumstances of which prayer must be stripped? 3. The bulk that the answers to the objections against prayer bear in the sermon, plainly shows, that they were the principal thing intended in it. And 4. Because this sermon, which is now printed, was only one discourse enlarged out of eight or nine delivered from the same text, at the same time this sermon was first preached, when I spoke at a

considerable length on the doctrine of the intercession of Jesus.

3d, I cannot help thinking, that this remark of the reverend committee would have been very groundless and uncharitable, even though the sermon had not borne such evident marks of its not being intended for a complete account of the doctrine of prayer. How is it possible to imagine, that true candour could ever have interpreted, "stripping prayer of its foreign and superfluous circumstances," to be stripping it of the mediation and intercession of Jesus Christ, when the same author, in the very same sermon, expresses his regard for these doctrines, in the most solemn manner imaginable, even in an address to the heart-searching and righteous judge of all the earth? when the same author, in another printed sermon, inculcates it as the duty of all ministers, to treat these subjects, not in a transient or superficial manner, but at great length, as being of the utmost importance? when the same author has frequently preached before thousands in the town of Glasgow (where the remark is made) on these very subjects? and the person, every time he prays, does it in the name of Jesus Christ—of which he has as many witnesses as there are persons who ever heard him pray, either in private or public? So that there is not the least ground for representing me as transgressing the Act of Assembly 1736.

4th, As the reverend committee has not attended to the limitations given to the subject, so they have not observed the characters, and turn of thinking, of the persons for whose instruction or information it is intended. The author thinks he has plainly marked them out in the introduction. It is such as have a determined contempt of prayer,—such as treat the example and the precepts of Jesus Christ, concerning prayer, in a slight and contemptuous manner. Now, such persons must either be confirmed deists, or sceptics. The last of these do always call themselves christians; and sometimes the former too, and are willing to embrace the doctrine of revelation concerning the moral character of God, and the precepts concerning the moral virtues, though they reject peculiar doctrines of christianity. And that some of both these sorts of men have imbibed strange prejudices against devotion, and especially against prayer, is well known to those who

are acquainted with the world. That such persons are apt to be fortified in their prejudices, by such books as are written with a design to ridicule devotion, must also be acknowledged. That some persons were actually confirmed in their prejudices against religion, by a late pamphlet, which endeavoured to represent all devotion as absurd and unreasonable—nay, as an impious and blasphemous practice—some have had particular occasion to know. Now, if this is the case, can the reverend committee condemn a well-designed attempt to remove prejudices, and reconcile men's minds to such an important branch of religion as prayer is? Is there any precept of divine revelation, any dictate of reason, any Act of Assembly, which forbids to make any application to such persons for their reformation? or that forbids us to reason with them on such principles as are owned by them, and just in themselves? And if such persons are partly prejudiced against prayer, by observing that absurd forms of it are sometimes used,—that needless repetitions, tedious informations, without any mixture either of prayer or praise, and many other superstitious practices pass in the world for true devotion: can any one be blamed, for stripping prayer of these foreign and superfluous circumstances, and placing it in its true light? Must a person be represented as an enemy to all christian prayer, because he has endeavoured to show, that prayer is a duty, even by the light of nature? Must not men first be reconciled to prayer itself, and be convinced that it is a reasonable thing, before they can be reconciled to praying in the name of Christ? And if, in reasoning with persons prejudiced against prayer, an author reason not only from the light of nature, but also from such parts of divine revelation as they will not much dispute to be agreeable to the moral character of God, owned by themselves; can he be justly blamed, because he does not reason from other parts of divine revelation, which they absolutely reject? Is it not evident to every intelligent reader, that if I had introduced the doctrine of the intercession of Christ into the description of the nature of prayer, that I must also, according to the method proposed, have answered the objections against it? But that was not my present design: that would have been a new subject; and the one I have handled is, in the nature of the thing, previous to it. So that the complaint

of omitting this doctrine of revelation, amounts only to this : Why did I not handle another branch of the doctrine of prayer ? or, Why did I not publish another sermon on this other subject ?

For my own part, as I am conscious to myself, that I composed this sermon in a good disposition, and with a good intention ; (and I hope that, to my readers it bears the marks of both) ; and as I have particular occasion to know, that, in some instances, it has been of use (by the divine blessing) to reconcile prejudiced minds to the theory, I hope also to the practice of prayer, I am possessed of an inward satisfaction of mind, which the whole world cannot rob me of : and, after all the clamour that has been raised, I still approve of the sermon's being sent abroad.

*Rem. 3.* That the author of the sermon having described prayer as mentioned in the former proposition, he again and again asserts, that the person thus praying shall be heard and accepted of God ; which we conceive to be contrary to Confess. chap. 21, sect. 3 ; as also to Larg. Cat. *Answer* to, "What is it to pray in the name of Christ ?" and to, "Why are we to pray in the name of Christ ?"

*Ans.* The author does not remember that he once asserted, that those who pray in the manner he describes shall be heard and accepted ; and the committee has pointed out no passage where he has once used these words. But, if there is any thing in this remark, it seems to coincide with the following one.

*Rem. 4.* The author teaches a trust and confidence in God, encouraged from the consideration of his infinite mercy, p. 7, 8, & 59, and the manifestations he as Creator hath given mankind of his glorious perfections, as employed for their safety and welfare, p. 12, l. 10 from the foot, without any relation to the mediation of Jesus Christ, and the covenant of promises founded on him : contrary, as we conceive, to Larg. Cat. *Answer* to, "What is justifying faith ?" where faith and trust include not only assent to the truths of the gospel-promise, but a receiving and resting upon Christ, and his righteousness therein held forth ; as also to Confess. chap. 14, sect. 2, where the principal acts of faith are, accepting, receiving, and resting upon Christ



alone, for justification, sanctification, and eternal life, by virtue of the covenant of grace.

*Ans.* The author is not directly treating of the grounds of acceptance in prayer, in p. 7 & 8. The grounds of acceptance are not proposed to be considered, in the beginning of the discourse: the principal thing the author has in view, through the whole first head of the discourse, is, to describe the inward acts of mind exerted in prayer; and, without descending to a particular explication of the several grounds and encouragements of being heard in praying, all that the author is asserting on this head is this, That none would ever pray, if they had not some hope and trust that they would be the better of praying; and indeed no creature that acts rationally would ever pray, if they did not hope and expect some advantage from praying; and therefore the author asserts, that some degree of hope and trust is a necessary ingredient of prayer. And that this was the author's chief design, is evident from his express words, p. 4, at the bottom, and p. 5, at the top. If the author has departed a little from his method proposed, and suggested any thing concerning the foundations of hope and trust, it is expressed almost wholly in the very words of Jesus Christ himself, and the other inspired authors. And the use that he makes of those promises of the holy scriptures, is, to reason from them with the deists and sceptics, (the people with whom he has to do), that they are more fully satisfactory to the human mind, and afford a stronger ground of trust, than the general conclusions of the light of nature. As to what is objected against p. 59, the author has mentioned the revelation of the will of God several times, in the prayer, before that expression: and the scheme of redemption is a part, an important part too, of the great plan of universal providence. Besides the manner of speaking is countenanced by our Shorter Catechism, in the *answer* to the question, "How doth God execute his decrees?" As to p. 12, l. 10 from the foot, the author is not speaking of the grounds of acceptance in prayer, but of those views of things which ought to lead men to pray; and all that he asserts is, that a sense of the imperfection of human nature, and the manifestations God hath given of himself in the works of creation and providence, ought to lead even those to pray, who do not enjoy the benefit



of divine revelation. This seems to be agreeable to the Confession of Faith, first sentence, and to Rom. i. 19, 20, 21.

*Rem. 5.* The author seems to them to insinuate, that there are some of mankind, who, without the benefit of revelation, are capable to reason out to themselves such a knowledge of God, as may be sufficient to their attaining to eternal happiness; contrary to Confess. chap. 1, sect. 1; as also to Larg. Cat. *Answer* to, "How does it appear there is a God?"

*Ans.* The author positively denies that he has either said, or insinuated, what the committee charges him with in this remark. All that the author has said here, is no more than an *argumentum ad hominem*; it is no more than this, That it must be acknowledged, even by deists and sceptics, who think a system of religion can be reasoned out by the light of nature, that revelation is a much easier way of attaining it, and much more fitted to the capacities and situation of the bulk of mankind. Though this were really all that I intended, and had no design of delivering any sentiment of my own, concerning the ability of mankind to reason out the knowledge of God, and of true religion; yet, lest this should be thought an artful evading of an inference drawn by the committee, which was otherwise unanswerable, I shall therefore endeavour to show, that there is nothing in what I have said contrary to the scriptures or Confession of Faith. That the heathens were capable of reasoning out a clear character of the Deity, is expressly asserted by the apostle Paul, Rom. i. 19, 20, 21, such a clear character as should have led them to glorify him. The Confession of Faith asserts the same thing, in effect, in the very first sentence of it, and adduces this passage of the apostle to prove it. But how the committee came to draw this inference, that I asserted, that some of mankind could reason out to themselves such a knowledge of God as is sufficient to eternal life, is extremely surprising. For, though I had asserted, (which I have not done, nor is it my opinion), that some of the heathens could have reasoned out as clear a character of the Deity, and as clear a connection betwixt virtue and happiness, as the scriptures have revealed, it could not be inferred, even from that assertion, that I had said, that some of the heathens could by the light of nature, attain

to such a knowledge of God as is sufficient to their attaining eternal happiness : for, according to our standards, it is not the speculative knowledge of God, (which is the thing I am speaking of), however clear it be, even with the clearness of revelation itself, that is sufficient for attaining salvation ; but that saving knowledge which is produced by the influence of the Holy Spirit. Thus the Confession of Faith, chap. 1, sect. 1, allows, that there is a very considerable degree of speculative knowledge attainable by the light of nature ; while, at the same time, it denies, that saving knowledge is attainable by it. And, in the same chapter, sect. 6, this distinction is more expressly established in these words : “ Nevertheless we acknowledge, that the inward illumination of the Spirit is necessary for the saving understanding of such truths as are revealed in the word.” From these considerations I hope it appears evidently, that there is no appearance of contradiction here to our standards.

*Rem 6.* The committee finds, that, in the objection, as it is laid, p. 36, it is directly asserted, “ That punishments threatened to be inflicted on sinners, in this and an eternal world, are intended, by our kind Creator, for our reformation and amendment.” And, in the answer to this objection, this proposition, though false in itself, and dangerous in its consequences, is not disowned or disclaimed ; though such a way of speaking and teaching be also contrary to Confess. chap. 3, par. 7, and chap. 6, par. 6.

*Ans.* The author, both in the objection, and in the answer, is so far from saying, that there are no other punishments, but what are intended for reformation and amendment, that he plainly expresses the contrary, according to the common use of language, that there are other punishments. For the words in the objection, “ those sufferings, &c.” necessarily suppose “ other sufferings.” “ Punishments destined for our reformation,” in the answer, also necessarily supposes, that there are *other* punishments, not destined for reformation. If I should say, *those* men are unsound in their principles, it necessarily supposes, that there are *other* men who are not so. 2. That there are other punishments, is expressly taught in the following page, l. 17 & 18 from the top. 3. For the clearing of this whole passage from all ground of cavil and suspicion, let it be

observed, that the objection is first stated in general, What use can prayer be of, for obtaining pardon of sin, and deliverance from those punishments threatened to be inflicted on sinners in this and an eternal world? After this general state of the objection, the first part of it, viz. How can prayer deliver us, or contribute as a mean to deliver us from the punishments of this life? is taken up and urged in the following terms:—"If sin deserves punishment, viz. in this life, and if punishment is necessary, &c." and so on to the end of the objection. Then the answer is given to this first part of the objection, "That a sense of our faults, &c." to the end of the 36th page. Now, the reason why the author has not returned, and stated and urged the second part of the objection, at full length, viz. How can prayer be a mean of delivering of us from the eternal punishments of another world? is this, that he thought it needless, and that it would appear to be so to the reader; because, if prayer is a mean of preventing those temporal punishments which God inflicts on wicked men, in order to awaken and convert them, by leading them to real repentance, before they are inflicted; then prayer must be also a mean of preventing those eternal punishments which would have followed upon their continuing in an impenitent state: and therefore the author, without formally stating the second part of the objection, which he thought was quite needless in his present argument, after having stated the first part, only adds, in answer to the second part, "And thus prayers, &c." in the top of p. 37. *i. e.* must be a mean of securing also from the punishments of an eternal world.

*Rem. 7.* That there is a natural, and therefore necessary, connection betwixt the penitent disposition, and the pardon of our sins, thereby superseding the necessity of the satisfaction of Christ, and the constitution of God, which is contrary to Confess. chap. 15, par. 3, and chap. 11, par. 1; and Larger Catechism, *Answer* to, "What doth every sin deserve at the hand of God?"

*Ans.* The author asserts no connection here betwixt a penitent disposition and the pardon of sin, but what is asserted in numberless passages of the Holy Scriptures, as Isa. lv. 6, 7—Acts, xxvi. 20—Prov. xxviii. 13. When the author asserts that prayer, and alteration of conduct,

secures from those punishments which must have ensued, &c., p. 37, l. 5, 6, 7, from the top, that is no more than saying, that repentance and reformation are necessary means, or conditions *sine qua non*, in both the nature of things, and positive appointment of God, of obtaining pardon of sin and eternal life,—which is perfectly consistent with the doctrine of the satisfaction of Christ for the sins of the world. Since the scripture, in innumerable places, asserts this connection betwixt repentance and forgiveness, without taking notice, at that time, of the doctrine of Christ's propitiation, how can any one be blamed for asserting this connection, in the same manner that the scripture does?

*Rem.* 8. The committee observes, that the passage cited, p. 41, at the beginning, appears to be altered.

*Ans.* The author's memory failed him here.

*Rem.* 9. The committee observes, from p. 62, *from the middle*, that where the author mentions the various ends of the coming of Christ into the world, and of his death, he omits taking notice of the greatest and most important end, namely, his satisfaction.

*Ans.* If the author has not mentioned the satisfaction, it must at least be owned that he has mentioned one of the grand effects of it, viz., the delivering us from the punishments due to us for our sins. Now, the mentioning the principal effect of any thing is very near the same thing as if he had mentioned the cause itself.

Before, however, this affair was brought to any issue, the Professor carried it by a complaint to the Synod of Glasgow and Ayr, who (notwithstanding an appeal by the Presbytery to the Assembly) having considered the Professor's answers to the committee's remarks, found that he had removed any offence the committee seemed to have conceived, and therefore found no reason to charge him with any unsoundness in the faith expressed in the passages complained of in the sermon.

The Assembly entered upon the case on the 17th of May; and, after very long pleadings, a committee was appointed to bring in an overture concerning it. Before this



committee parties pled ; and the Professor presented the following paper, signed :—“ One main occasion of publishing this sermon, on prayer, was to prevent the bad effects of a late pamphlet which represents prayer as an absurd and unreasonable, nay, as an impious and blasphemous practice. For that wicked pamphlet being spread in the part of the country where I live, and having had observable bad influence upon young and unthinking minds, I was persuaded by some friends, who are zealous for the interests of religion, to publish this sermon (which they had occasionally heard me preach) as a proper antidote to the poison of it. As the pamphlet which occasioned the publication of this sermon did attack only one part of prayer, viz., *offering up our desires to God*, but did not attack the other part of it, viz., offering them up *in the name of Christ*, the discourse is therefore mainly limited to the explication and vindication of this first part of prayer, without explaining and vindicating the second part of it, which I considered as a separate subject, or at least a different branch of the same subject. So that the omissions complained of in that performance did not proceed from any disregard of these important and fundamental doctrines of christianity, “the offering up our desires to God in the name of Christ, and the merits and satisfaction of the Mediator as the only grounds of our acceptance with God, and of our obtaining the pardon of sin ;” but from a persuasion that it is necessary to convince men of the reasonableness of offering up their desires to God, before you can convince them that it is a reasonable thing to offer them up in the name of Christ ; and from a persuasion that it might be of some use (through the Divine blessing) to endeavour to do the first of these, at the time when, and in the place of the country where I attempted it. If, therefore, any passages of this sermon have been so uncautiously expressed, as naturally to lead any to think (which I am not yet convinced they are), that I meant to assert, “ That the necessity of the christian religion itself is superseded by the light of nature, or that the light of nature is sufficient to give that knowledge of God, and of his will, which is necessary to salvation ; that praying in the name of Christ is not the duty of christians, or a foreign and superfluous circumstance ; or that the merits and propitiation of Jesus Christ are not the only grounds of a sinner’s acceptance



with God, and of his obtaining the forgiveness of sin ; and that the only end of punishment is the reformation of the offender," I honestly declare I had no such intention in those passages. And that this is really so, may be further confirmed from this certain fact, that this sermon, which is now printed, was only one sermon enlarged out of eight or nine delivered from the same text, at the same time this sermon was first preached, when I spoke at considerable length on the doctrine of the intercession of Jesus Christ. Besides, it is well known to the Presbytery of Irvine, that I preached regular courses of sermons on the particular doctrines of christianity in my own congregation, as well as I frequently preached abroad on the same subjects, as occasion offered. And as I have already subscribed the Confession of Faith, where these doctrines are taught in the strongest manner, as the confession of my faith, I am still willing to do the same again."

On the 21st, the committee reported to the Assembly, "That having considered the sermon, and particularly the passages thereof chiefly excepted against ; and having read and considered the remarks of the Presbytery of Glasgow, and the Professor's answers to the same ; and having heard the parties, and received and considered a paper, voluntarily offered by the Professor, explaining himself further on the occasion of the sermon, and on the subject of the passages excepted to ; and again called the parties, and read that declaration in their presence, and heard the members of the Presbytery of Glasgow thereupon ;—are of opinion, That the Professor has given abundant satisfaction concerning the orthodoxy of his sentiments, and that there is no ground or occasion remaining for any farther trial of the said Professor in respect of that sermon ; and that the Presbytery of Glasgow be prohibited to commence or carry on any further or other proceedings against the Professor on account of that sermon."—Which was agreed to by the Assembly, without a vote, with this explanation, "That by the expressions in the narrative, viz. 'and particularly the passages chiefly excepted against,' no more was intended by the committee, (as by several members thereof was declared), nor is intended or meant by this Assembly, in approving their overture above inserted, than that the committee, and thereafter the Assembly, considered the passages in

the said sermon that had been remarked upon by the said Presbytery of Glasgow, and another passage taken notice of by some members of the committee of Assembly; but not that either the committee or the Assembly had read over or considered the whole of that sermon." This sentence being intimated to the parties, Professor Leechman took instruments, and the members from the Presbytery of Glasgow, appellants, declared their acquiescence.\*

Act appointing Presbyteries to keep separate records, for inserting particulars relating to the scheme for a provision for ministers' widows, &c.

Act and recommendation against the sinful practice of *smuggling* of goods, and appointing the Acts of 1719 and 1736 to be read from the pulpits of all the parish churches within Scotland, betwixt and the 1st of August.†

The appeal of the Earl of Cromarty, and others of the parish of *Lochbroom*, from a sentence of the Presbytery of Gairloch, delaying to give judgment upon a call by the said parish, to Mr. James Robertson, probationer, to be their minister, heard, with a representation by the said

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\* Mr. *Robe* published an appendix to the pamphlet mentioned at p. 46, "vindicating the Act passed by the Assembly in this affair." Mr. *Willison's* "Fair and Impartial Testimony unto the laudable *principles, wrestlings and attainments* of the Church of Scotland," appeared in this year (1744), and contains a Postscript on the subject of Professor Leechman's Sermon on Prayer.

† During the course of this year, resolutions were entered into by most of the counties and towns, and by many of the parishes in Scotland, against the use of French wines and spirits, and against *Foreign tea*. The heritors of East Lothian set the example, complaining "that a luxurious and expensive way of living has shamefully crept in upon all ranks of people, who, *neglecting the good and wholesome produce of our own country*, are got into the habit of an immoderate use of French wines and spirits;" as also "that the drinking of tea, and especially among the people of lower rank, has arrived at an extravagant excess to the hurt of private families, by loss of their time, increase of their expense, and negligence of a diet more suitable to their health and station." The example set by the parish of Swinton, of subjecting themselves to penalties in case of any breach of their resolutions, was followed by the barony of Brisbane, and by William Fullarton of Fullarton, Esq. and his vassals and tenants. These last, in their bond, speak of the use of tea thus:—"We, being all farmers by profession, think it needless to restrain ourselves formally from indulging in that foreign and consumptive luxury called *tea*; for when we consider the *slender constitutions* of many of higher rank, amongst whom it is most used, we conclude, that it would be but an improper diet to qualify us for the more *robust and manly* parts of our business; and therefore we shall only give our testimony against it, and leave the enjoyment of it altogether to those who can afford to be *weak, indolent and useless*."

Presbytery to the Assembly, containing a summary of their proceedings in this affair; and the Assembly unanimously sustained the foresaid call, and appointed the Presbytery of Gairloch, to proceed to his trials and settlement, as minister of the said parish, and for that end, to meet at Lochcarron, upon the 28th of June next, and begin to take his trials, and carry it on with all convenient dispatch; and in case of their refusal, or delaying to proceed, the Commission is empowered to cognosce and finally determine, in any appeal, reference or complaint, that may be brought before them from the said Presbytery, touching, or that may affect the foresaid trials and settlement, and if they see cause, to appoint the ministers of the Presbytery of Taine and Dingwall, or any five of them, to take the regular steps towards, and make effectual the foresaid settlement.\*

The sentence of the Presbytery of Cupar, rejecting a call of the heritors and others of the parish of *Collessie*, to Mr. John Mathie, probationer, to be their minister, and sustaining a call by others of that parish, to Mr. George Simpson, probationer, reversed; and the call to Mr. Mathie sustained.

Report of the Committee, appointed to consider the Act of Parliament for a provision to the widows and children of ministers, brought in; and agreeable thereto, the Lord Advocate being present, received the thanks of the Assembly, for the great pains and trouble he had taken in preparing the bill for the said Act, and carrying it through the House of Commons; and the Moderator was appointed, in the Assembly's name, to write letters of thanks,

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\* For some interesting anecdotes of Mr. Robertson, who became rather famous in his day, see the New Statistical Account of Scotland, No. XII, p. 79. He was a native of Athole, and having been recommended by the Duke of Athole to the Earl of Cromarty, had been by him presented to Lochbroom, on the translation of Mr. Ross to Fearn. The Presbytery, however, had preferred Mr. Mackenzie (in the exercise, it is alleged by Dr. Ross, of the *jus devolutum*), but on his rejection by the Assembly 1743, the way was open for Mr. Robertson.—See above, pp. 36, 41. He was present in the church of Fearn when the roof fell in (as described in the note at p. 41), and “seeing the lintel ready to give way, he placed his shoulder under the end of it, and stood in that position till as many of the people as could move escaped.” For this extraordinary feat of strength he was always afterwards called “Am Ministèir làidir”—*the strong minister*. The grosser delinquencies of his semi-barbarous parishioners he often punished with the weight of his tremendous arm, as well as with more spiritual weapons.

to the Right Hon. the Lord High Chancellor of Great Britain, and to the Right Hon. the Speaker of the House of Commons,\* for their countenance and favour, at passing the said bill through both Houses.

Messrs. *Robert Wallace* and *George Wishart*, Commissioners sent to London, to solicit the obtaining of the said Act of Parliament, were thanked for their faithfulness and diligence therein.

The Rev. Mr. *Alexander Webster*, one of the ministers of Edinburgh, being present, received the thanks of the Assembly, for the extraordinary pains and trouble taken by him, in the rise and progress of the scheme.

The sum of £500 laid out by the Commissioners sent to London to solicit the application for the Act of Parliament, anent a *Widows' Fund*, (including their personal charges) declared to be a debt upon the Church's public fund, and an order made for payment thereof, with interest from Candlemas last, to the said Commissioners or their order, as money comes in.

The opinion of a committee, that the trustees of the *Widows' Fund* have not power to receive Mr. James Glasgow, *minister in the Castle of Edinburgh*, as a contributor to the scheme, agreed to.

The draught of a bond to be granted by the person to be chosen *Collector* of the fund for a provision to the ministers' widows, agreed to; and three of the gentlemen proposed for that office, having desired to withdraw their names as candidates, the Assembly did nominate and elect Mr. James Stewart, Attorney in Exchequer, to be Collector-General.

Act approving of the choice, made by the trustees of the Widows' Fund, of Robert MacIntosh, Sub-Clerk to the General Assembly, as their *Clerk*.

Heard a petition of John Vans of Barnbarroch as patron, and other heritors, and others of the parish of *Kirkcowan*, callers of Mr. John Hart, probationer, to be minister of that parish, tabling certain appeals from the Synod of Galloway; and another petition of other heritors, elders

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\* The Lord Advocate at this period was Robert Craigie, Esq. of Glen-doig, (afterwards Lord President.) He had been appointed to succeed Charles Erskine, Esq. of Tinwald, on the fall of the Walpole Ministry, and was M.P. for the Dornoch District of Burghs, and one of the Elders from the Presbytery of Perth. Lord Hardwicke was Chancellor, and Onslow, Speaker of the Commons.



and others, of the said parish, callers of Mr. Robert Hunter, probationer, to be their minister; the Assembly affirmed the sentence of the Synod of Galloway, in so far only as it affirms the sentence of the Presbytery of Wigtoun, sustaining the call to the said Mr. Robert Hunter, and they appointed the said Presbytery to proceed to his trials and settlement, as minister of Kirkcowan, according to the rules of this Church.

The sentence of the Synod of Aberdeen, sustaining the call of the parish of *Rain* to Mr. John Mair, minister at Forbes, to be their minister, affirmed; and the Presbytery of Garioch appointed to proceed in all the proper steps towards his transportation and settlement, as minister of the said parish of Rain.

The committee on the *Psalmody* (1742) is re-appointed with additions.

The report of the committee appointed to consider representations concerning the *state of Popery* in the North brought in, and letters ordered to the Lord Lovat to interpose for suppressing the Mass-houses in Strathglas, and to the laird of Lochiel for his countenance.

The report of the committee for overtures brought in, reciting an instruction from a Presbytery, touching some *aspersions cast upon this Church*, as if she had given up with all the fundamental doctrines of christianity, and therefore proposing that certain Acts of Assembly against the Marrow of Modern Divinity, and with respect to Professors Simson and Campbell, and the 7th Act of Assembly, 1736, about the method of preaching, be printed: And the Assembly recommended to the several Sessions to buy the Acts of Assembly, and read such of them as are of public concern in their meetings of Session.

The Overture and Interim Act about *licensing probationers*, transmitted last year to Presbyteries, continued.

Recommendation to Presbyteries, for time to come, to take care that all *Commissions* be in due form according to the Acts of Assembly.

The appeal of the Lord Salton, and others, of the parish of *Pitsligo*, from a sentence of the Synod of Aberdeen, appointing the Presbytery of Deer to proceed to the settlement of Mr. William Innes, as colleague and successor, to Mr. William Mercer at Pitsligo, heard, and the said sentence reversed.

The appeal of his Grace the Duke of Douglas, patron of the parish of *Roberton*, from a sentence of the Synod of Glasgow and Ayr, affirming a judgment of the Presbytery of Lanark, refusing to proceed to the trials and settlement of Mr. William Nimmo, probationer, to be minister of the parish of Roberton, heard; and the Assembly finding that the *jus devolutum* of settling the said parish, did fall in the hands of the Presbytery there; (the patron having failed to present a qualified person, duly accepting, within six months of the vacancy,) therefore the said sentences of the Synod and Presbytery are affirmed, and the Presbytery appointed to proceed to the settlement of the said parish, according to the rules of this Church.

An appeal of John Robertson of Boghall, and other elders of the parish of *Baldernock*, from the sentence of the Synod of Glasgow and Ayr, affirming a judgment of the Presbytery of Dumbarton, refusing to receive an accusation, by the Kirk-session of Baldernock, against Mr. John Colquhoun, probationer, then on trials before the Presbytery, in regard it was not offered in form of a libel against him, heard; as also a petition of heritors of that parish, complaining of the Presbytery, for not proceeding to Mr. Colquhoun's settlement at Baldernock; and the said sentence of the Synod is affirmed and the Presbytery of Dumbarton appointed to proceed to Mr. Colquhoun's settlement, as minister of Baldernock, according to the rules of this Church; and his edict appointed to be returned to the Presbytery fifteen free days before the day to be fixed for his ordination and admission.

An appeal of heritors, elders, and heads of families, of the parish of *Parton*, callers of Mr. John Crockat, probationer, to be their minister, from a sentence of the Synod of Galloway, affirming a judgment of the Presbytery of Kirkcudbright, sustaining a notorial call, by others of that parish, to Mr. William Clerk, probationer, to be their minister, referred to the Commission.

A petition of the printers to the Church, complaining, That of 500 copies of the *Acts of Assembly*, printed yearly, for 20 years past, scarce one half of them are disposed of, referred to the Commission.

A recommendation to Presbyteries, who apply for any part of the royal bounty, to send up distinct accounts of the extent, circumstances, and number of *Papists* in their respective parishes.

The Moderator appointed to sign a copy of the records of the General Assembly 1735, and 1736, whereof the now deceased Mr. Alexander Anderson, and Mr. Lauchlan MacIntosh, were Moderators.

Protestation admitted at the instance of the Presbytery of Dumbarton, against Mr. Robert Yates, late minister at *Old Kilpatrick*, for not insisting in his appeal, from a sentence of the said Presbytery, deposing him from the office of the holy ministry, and the said appeal declared to be void and null.

*May 21st.* The General Assembly was concluded with prayer, and singing a part of the 72d Psalm, from the 17th verse to the close, and pronouncing the blessing.

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## 1745.

The Assembly met on the 9th of May. The Earl of Leven represented the King ; and Dr. William Wishart, Principal of the College of Edinburgh, was chosen Moderator.\*

By the report of the trustees for managing *the fund for ministers' widows*, &c. it appears, That there are 942 benefices in the Church, and 69 offices in the Universities ; that, at Martinmas 1744, there were 897 Church-benefices full and 45 vacant, and 65 offices in Universities full and 4 vacant ; that 818 Ministers and Professors have become subjected to the following annual taxes, viz. 31 to £2 12s. 6d., 201 to £3 18s. 9d., 338 to £5 5s., and 248 to £6 11s. 3d ; that, between the 25th of March, 1744, and Martinmas, 16 Ministers and Professors died, and 6 widows and 1 family of children came upon the fund, who will be entitled to draw as follows at Martinmas 1746, viz. one widow £15, four £20 each, and one £25, all *per annum*, and the family of children £150 in full ; and that on or before the 14th May, 1745, £7380 was ordered to be lent to contributors, at £30 each, in part of the capital to be made up.

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\* The sermon was (as usual) preached by the former Moderator, Mr. Adams, who since last year had been transported from Dalrymple to Falkirk.

The General Assembly considering how much it is for the honour of GOD and edification of the Church, that all *ministers and preachers* of the gospel, be persons of good life and character, do earnestly recommend to, and enjoin all Presbyteries to take care, that all ministers behave themselves as becomes their character; and to be strict in adverting, that young men whom they license to preach the gospel, be persons of good report, and carefully observe their behaviour after they are licensed; they do also appoint, That the rules of the Form of Process, chap. 7, with respect to informations against ministers of this Church, be extended to *probationers*.\*

The absence of Mr. William Grant (the Principal Clerk) for two days, is excused, and his deputation of Mr. Andrew MacDonal, Advocate, to officiate for him as Clerk, until his return, is agreed to.

The Assembly heard the report of the committee for revising Commissions transmitted from the committee for overtures, concerning the election of a *Ruling Elder* to this Assembly, *from the Presbytery of Garioch*, mentioning a Commission by them to the ministers therein-named, and Thomas Dundas, their ruling elder; and also a Commission by certain ministers, and one ruling elder, thereto subscribing, to the Lord Drummore, as ruling elder to represent them in the Assembly; and stating that though the Commission to Mr. Dundas is every way formal, yet it appears, there was a protest taken at the election, and an appeal and complaint thereafter taken to this Assembly, against the Presbytery's judgment, rejecting the vote of an elder at the election of the said Commissioners. Heard also two petitions, the one of seven ministers and two elders, mentioning that the said ministers and one elder had voted for Lord Drummore, and that other seven ministers had voted for Mr. Dundas, and by having laid aside the vote of the said ruling elder, the Moderator had given his casting vote for Mr. Dundas, and declared him duly elected, against which protests were taken. The other petition for the said Mr. Dundas and several ministers, complaining of Mr. John Likly's sitting and voting in Presbytery, though he is only his father's assistant, as

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\* This last clause was next year transmitted as an overture to Presbyteries.



minister of Old Meldrum ; (which parish is said to have been disjoined from the Presbytery of Garioch, and annexed to the Presbytery of Ellon ;) and after reasoning, the Assembly found the complaint against the election of Mr. Dundas, is properly brought before them ; and then upon a question, it carried not to sustain his election. After which the Assembly did find the Lord Drummorie duly elected a member from the Presbytery of Garioch, and ordered that his name be enrolled in place of Mr. Dundas.

An appeal of heritors, elders and others, of the parish of *Menmuir*, callers of the Rev. Mr. George Blair to be their minister, from a sentence of the Synod of Angus and Mearns, sustaining a presentation from the crown, and a call of others of the said parish to Mr. George Ogilvie, minister of Cortachy, to be their minister, heard, and the said Synod's sentence affirmed, and the Presbytery of Brechin appointed to proceed with all convenient dispatch to carry on a process for Mr. Ogilvie's transportation and settlement as minister of Menmuir, according to the rules of this Church.

A petition of Sir Thomas Wallace of Craigie, patron, and of the heritors, elders, and heads of families, of the parish of *Craigie*, callers of Mr. George Bannatyne, probationer, to be their minister : tabling an appeal from a sentence of the Synod of Glasgow and Ayr, reversing a judgment of the Presbytery of Ayr, refusing to hear a memorial offered to them by Mr. Wallace of Cairnhill, containing objections against their proceeding to the said Mr. Bannatyne's trials and settlement as minister of Craigie, read ; and their being another appeal by Cairnhill, against the Synod's refusing to proceed to hear his said memorial themselves, but remitting it to the Presbytery, to be judged of by them, agreed instantly to be dropt : The Assembly considering, that Mr. Bannatyne had an undoubted presentation, and a good call from the parish, who still adhere to him, did reverse the sentence of the said Synod of the third of October last, which reversed the judgment of the Presbytery of Ayr, refusing to take in Cairnhill's memorial, and resolved to proceed to take steps towards Mr. Bannatyne's settlement at Craigie, before hearing objections against him, together with that which in consequence of this former Act they passed on the fourth of

October, remitting Carnhill's memorial to the Presbytery of Ayr, appointing them to take it before them, read, judge, and determine anent it; and the said Presbytery of Ayr is appointed to go on with Mr. Bannatyne's trials; and that after these are finished, his edict be served and returned to the Presbytery, before the day for his ordination be appointed, that if, on the day of the return of the edict, any objection be offered, which is contained in the process already discussed by the Synod of Glasgow, no regard be had thereto; and if any new objections be offered, that they be not received, unless they are offered to be instantly verified, or a libel subscribed by the objectors, containing a list of witnesses. And the Commission is empowered to receive, cognosce, and finally determine in any reference, appeal, or complaint, that shall be regularly brought before them, touching the trials or settlement of the said Mr. Bannatyne, in the parish of Craigie; but so as not to overleap the Synod, in case a meeting thereof intervene.

A petition of Mr. William Auld, minister at *Mauchline*, tabling an appeal from a sentence of the Presbytery of Ayr, finding him guilty of great imprudence, *in throwing out a story affecting the character of a brother*, and ordering, that he be admonished, to be more cautious for the future: With another petition of Mr. Patrick Wodrow, minister at *Tarbolton*, a member of the said Presbytery, praying leave to lay the case above-mentioned fully before this Assembly, that they may give judgment thereanent, read, and the said affair dismissed; and the Assembly recommended to the brethren of the said Presbytery to bury their differences in oblivion, and to live henceforth in brotherly love and friendship.

Upon a petition of the Commissioners from the Presbytery of Cupar, the Assembly authorised that Presbytery in filling up their records, not to insert their proceedings, had in an affair concerning Mr. George Boes, minister at *Cupar*, provided all parties concerned, give their consent thereto.

A complaint of Thomas Moffat, Matthew Allan, and other heritors and elders of the parish of *Moffat*, against a sentence of the Commission of the last General Assembly, reversing a judgment of the Synod of Dumfries, in a trial touching the character of Mr. Edward Johnston,

probationer ; and appointing the Presbytery of Lochmaben, to proceed to his settlement as minister of Moffat, read : As was also an appeal of the Marquis of Annandale, and others of the said parish, promoters of Mr. Johnston's settlement, from the said Presbytery's resolutions, not to proceed to obey the Commission's said sentence, until the meeting of this General Assembly ; and the Assembly found the Commission did not exceed their powers, and therefore dismissed the said complaint ; and found the Presbytery not censurable, in delaying to obey the Commission's sentence, in respect of the then circumstances of the case ; but do now appoint the said Presbytery to proceed, in obedience to the said sentence of the Commission, to the trials and settlement of the said Mr. Edward Johnston, as minister of Moffat, with all convenient dispatch, according to the rules of this Church.

A committee appointed to converse with the members from the said Presbytery of Lochmaben, and endeavour to remove their difficulties in proceeding to the said settlement of Moffat. And on their report, the Presbytery, or *such of them as shall be willing*, are appointed to execute the sentence passed by the Commission of the late Assembly in November and March last, with respect to the settlement of the parish of *Moffat* ; and the Commission instructed to cognosce and finally determine in any question, that shall be brought before them relating to that settlement.

The Act 4th, Assembly 1706, Act 16th, Assembly 1707, Act 15th, Assembly 1708, with the appointment of the Assembly 1742, pointed out by the committee named to inspect the records for precedents, with respect to the Assembly's authorising *translations or paraphrases of passages of scripture* to be used in public, read ; with the collection of passages of scripture translated into verse, prepared by the committee named by last Assembly, and revised by the committee appointed by this Assembly ; and a committee appointed to prepare an overture on the terms on which the said collection may be transmitted to Presbyteries.

Overture on the terms upon which the collection of *passages of scripture translated into verse*, may be transmitted to Presbyteries, agreed to, after some amendments. The tenor is as follows :—The Assembly had laid before

them by their committee, some pieces of Sacred Poesy, under the title of "Translations and Paraphrases of several passages of Sacred Scripture," composed by private persons; and though the Assembly have not sufficient time to consider these poems maturely, so as to approve or disapprove of them, yet they judge the same may be printed; and do remit the consideration of them to the several Presbyteries, in order to their transmitting their observations to the next General Assembly; that they or any subsequent Assembly, may give such orders about the whole affair, as they shall judge for edification; and the Assembly appoint this their resolution to be prefixed to the impression.

The draught of an Act, with the specimen of certificates to be granted by Presbyteries to ministers' widows and children; and of the manner of keeping their separate records, brought in by the committee named to consider the representation of the trustees for managing the fund for a provision to ministers' widows, &c., approved.

A report and overture of the committee appointed to consider the case of the parish of *Roberton*, brought in, and, after some amendments, approved,—bearing, that considering the circumstances of the case,\* it would not be expedient to proceed to an immediate decision thereof; and, therefore, that the consideration thereof should be delayed till the next General Assembly, leaving the cause open as it now stands; and appointing the Moderator to write a letter to his Grace the Duke of Douglas, to assure him of the great respect this Church has for him and his noble family; and desiring his Grace to do all that lies in his power to relieve the parish of *Roberton*, and Presbytery of *Lanark*, from the hardships they at present labour under, and to make way for a peaceable and comfortable settlement of the said parish; and Messrs. Baillies, elder and younger of *Hardingtoun*, heritors of the said parish, being present, were exhorted also to concur in so good and laudable a design.

Petition of Mr. John Likly, assistant-minister of *Old Meldrum*, craving the Assembly would consider an Act said to be passed by the Synod of *Aberdeen*, disjoining the said parish from the Presbytery of *Garioch*, for a

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\* There were competing calls—one to Mr. Wm. Nimmo, the other to Mr. John Rodger.—See under last year.



certain time, and annexing it to the Presbytery of Ellon ; and determine to what Presbytery the said parish shall henceforth belong,—referred to the said Synod of Aberdeen, at their first meeting, to consider and determine the affair ; and in case any difficulty arise, that the same be decided by the Commission.\*

In consequence of the last-mentioned case, there was passed an Act prohibiting Synods to *disjoin any parish from a Presbytery*, and annex the same to another, without first having the authority of the General Assembly.

A petition and appeal of Mr. David Blair, minister of *Brechin*, and of heritors, elders, and others of that parish, callers of Mr. George Aitken, one of the ministers of Montrose, to be second minister of Brechin, from a sentence of the Synod of Angus and Mearns, sustaining a call to Mr. James Fordyce,† probationer, to be minister of the said town and parish, heard, and the said Synod's sentence affirmed ; and the Presbytery of Brechin, or such of them as shall be willing, appointed to proceed with all convenient dispatch to the trials and settlement of the said Mr. Fordyce, as minister of Brechin, according to the rules of this Church.

A committee is appointed to converse with Mr. Blair, minister of *Brechin*, in order to remove any difficulties he may be under, with relation to the settlement of Mr. Fordyce, as second minister of Brechin.

It being remarked by the committee for revising Commissions that there were only twelve charges in the Presbytery of Stirling, till a third minister was settled in the *town of Stirling*,—which settlement entitled that Presbytery to send three ministers' commissioners to the General Assembly ; but, it is informed, they claim to be exeemed from payment of the tax due to the Widows' Fund, out of that vacancy of third minister in said town—the Assembly enjoin the Presbytery of Stirling to take all proper care to preserve the erection of a third minister in the town of Stirling, and the Synod to give them their advice

\* Old Meldrum continued to belong to the Garioch Presbytery. The whole seems to have been a *manœuvre* to secure the election of Dundas as Elder to the Assembly.—See p. 67.

† Afterwards minister of Alloa, and (in 1762) of Monkwell Street Chapel, London ; author of “ Sermons to Young Women,” &c. He died at Bath in 1796.

and assistance in that matter; and if the said erection fails, and is no more to take place, the Presbytery are certified that, in all time coming, they are only entitled to choose two ministers as their representatives to the General Assembly.

The sentence of the *greater excommunication* passed by the Presbytery of Biggar, on James Rammage and Janet Mackie, in the parish of Glenholm, and Presbytery of Biggar, who were guilty of a relapse in adultery with one another; and each of them having been twice guilty of fornication with other persons; appointed to be intimated from the pulpits of all the churches within Scotland.

Petition and complaint of heritors, elders, and heads of families of the parish of *South Uist*,\* against the Presbytery of Uist, for their proceeding to the settlement of Mr. John MacAuley, as minister of South Uist, notwithstanding of a presentation from the crown, in favours of Mr. Neil MacLeod, probationer, to be minister of that parish duly accepted by him, and concurred with by the petitioners, with an appeal from the said Presbytery's sentence, laying aside the said presentation, read; and the settlement of the said Mr. MacAuley, as minister of South Uist, reversed; and the Presbytery of Uist, in conjunction with the Presbytery of Skye, appointed to proceed to take trials of the qualifications of the foresaid Mr. Niel MacLeod, in order to his settlement as minister of South Uist.

Reference from the Presbytery of Lanark, for advice concerning persons falling under scandal in parishes, and refusing to submit to discipline, because they allege they are not obliged, being of the Society called *Seceders*, referred to the Commission.

Upon a representation, that Lord John Murray, Colonel of the *Highland regiment* in his Majesty's service, inclines to have a chaplain of the communion of this Church, having the Irish language, who must soon be ordained for that office; and that Mr. Adam Ferguson,† student in divinity, son to the minister of Logierait, in the Presbytery of Dunkeld, is pitched upon for that purpose; the

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\* Dr. Lee's account of this curious case will be found under next year.

† This was the celebrated Dr. Adam Ferguson, afterwards Professor of Moral Philosophy in the University of Edinburgh. Mr. MacLaggan was minister of Little Dunkeld.

General Assembly, in respect of the ample certificates given of the said Mr. Ferguson's capacity and good character, and of the peculiar circumstances of the case, remitted to, and appointed the Presbytery of Dunkeld, to take him upon trials; and, in case they find him qualified, to ordain him, on his passing his first trials: And Mr. MacLaggan is ordered to return thanks to Lord John Murray for his good disposition towards this Church, and the interest of religion.

The Act and Overture about the manner of licensing probationers transmitted again to the consideration of the several Presbyteries.

Two several appeals of heritors, elders, and others, of the parish of *Barr*, the one callers of Mr. Robert Fisher, probationer, and the other of heritors, elders, and others, callers of Mr. James Young, probationer, to be minister of the said parish, from a resolution of the Presbytery of Ayr, passed the 2d May instant, finding difficulties to pass any sentence in the cause, and referring the whole to the decision of this Assembly, heard; and both calls laid aside, and the Presbytery of Ayr appointed to proceed towards the planting of the said parish, according to the rules of this Church.

The report of the visitors of the Synod-book of Angus and Mearns offered, but none of the members from the said Synod being present, the Assembly refused to cause attest their book, and declared their dissatisfaction with the brethren, members of the said Synod, for their non-attendance on the Assembly's diets.

*May 20th.* The Assembly was concluded with prayer, and singing a part of the 122d Psalm, from the 6th verse to the close, and pronouncing the blessing.

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#### COMMISSION MEETING IN NOVEMBER.

IN the interval between the meeting of the Assembly in May, and that of the Commission in November, *the Rebellion* of 1745 broke out. Prince Charles Edward had obtained possession of Edinburgh, and gained the decisive battle of Prestonpans. The rebel army left Edinburgh, on its way south, at the beginning of November;

and about a fortnight after (November 13th) the Commission of the Assembly held its usual Quarterly Meeting.\* They immediately presented an address of loyalty and attachment to King George; and upon the 15th Nov. (the same day on which Carlisle surrendered to the rebels) they issued the following

WARNING AND EXHORTATION.†

“The Commission of the General Assembly of the Church of Scotland, considering, that a wicked and desperate rebellion is raised and carried on in these kingdoms, against our only rightful and lawful sovereign King George; and with an intent to subvert our present happy Establishment, by setting a Popish pretender on the throne, educated in all the maxims of Popish superstition and French tyranny, judge it our indispensable duty, as appointed by our great Lord and Master to watch for the souls of men, and in pursuance of the trust committed to us by the General Assembly to watch over the concerns of this Church, to give faithful and public warning to the people under our care, of the imminent danger with which every thing valuable to us, as we are men and christians, is evidently threatened. We therefore do earnestly obtest all Protestants, all lovers of our religion, liberty, and native country, to beware of the delusive arts which Romish emissaries from abroad, and the enemies of our constitution at home, have industriously and indefatigably used to destroy that glorious structure, which our gracious God reared up at the revolution, by King William of immortal memory.

“Specious declarations are made, by the pretender and his son, of securing to British Protestants their religion and liberties, but they are made by the sons of a church, whose known principle and practice is, never to keep faith with heretics, (and such she reckons all Protestants); a church which never omitted an opportunity of destroying all those who separated from her, when it was in her

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\* On the same day, the Lord Justice Clerk, and other judges and officers of the Justiciary Court, returned to Edinburgh, and resumed their functions. But the Court of Session was adjourned by Act of Parliament, from the 1st Nov. 1745, to the 1st June 1746. A chronicler of the day says, that “it sat down the 3d of June, to the great joy of the whole nation.”

† The notes to this paper are all in the original document published by the Commission, which is not, however, to be found among the printed Acts.



power. She considers them as the pests of human society, from whose contagion she thinks herself obliged to deliver the world. Witness the treatment of John Huss and Jerom of Prague,\* and the barbarous massacres of Paris† and Ireland.‡

“To strengthen this pretended security, a promise is made to call a *free Parliament*, and to act always by the advice of *Parliaments*. But, can anything be more absurd, than to imagine, that he who founds his title to govern upon an hereditary and indefeisible right; that he who considers the whole nation as his natural estate, and all the members thereof as his property, will allow himself to be restrained by any limitation, or have regard to any thing but sole will and pleasure? What authority can laws have, when, notwithstanding the most notorious violations of them, this pretended right remains entire, and not to be forfeited by any conduct whatsoever?

“By these principles of indefeisible hereditary right and arbitrary power, France and Spain are governed. These are the principles the late King James pursued in his administration. Notwithstanding the declaration he made, immediately upon his accession to the throne, in the English Council and Parliament; (than which nothing can now be devised stronger :) and notwithstanding the solemn engagements he then came under to govern according to law; yet did he break through all these engagements. On which accounts he justly forfeited the crown.

“Have we not reason to think the pretender would do the same; who says in his declaration, that all who are employed in the service of the present government cannot but be sensible, that no engagement entered into with our only rightful sovereign King George, whom he arrogantly calls *the usurper*, can dispense with the allegiance they owe to their *natural sovereign*, as he vainly calls himself? Can we then believe his declarations of establishing the

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\* Who were both burnt at Constance, for what the Church of Rome called *heresy*, though the first of them had the solemn deed of the Emperor for his safe passage to, and return from thence: and the council of Constance, then sitting, declares, that, notwithstanding the said safe conduct, the church had a right to condemn him, and deliver him over to the flames.

† Where, and in other cities of France, 30,000 innocents were murdered in a very short time, without distinction of age, sex, or condition. At the news of which slaughter, the court of Rome triumphed, and caused medals to be struck for the perpetual memorial of it.

‡ In which some hundred thousands of Protestants perished.

Protestant religion, whose conscience is subject to a foreign power ; and who is under prior engagements to his spiritual sovereign, the Pope of Rome, to destroy it ?

“ Though the pretender’s son would seem to acknowledge some miscarriages in former reigns, is it not evident, that he treads in the steps of the late King James, by levying money in an arbitrary manner, as he did immediately after his accession ? Has he not treated the country as a conquered nation, by enforcing his exorbitant demands with the threatening of military execution ? If such things are done whilst he courts a crown, what may we not dread if he should be possessed of it ?

“ What abuses might not be expected from the army he employs to raise him to the throne ? a great part of which is made up out of the *barbarous corners* of this country ; many of whom are Papists, under the immediate direction of their priests ; trained up to the sword, by being practised in open robbery and violence ; *void of property of their own ; the constant invaders of that of others ;* and who know no law, but the will of their leaders.

“ Whilst our most gracious sovereign treated them with the greatest indulgence and clemency ; and did everything to encourage them to honest labour, and to render them useful to the country : and whilst, as a true father of his people, he yearly bestowed a considerable sum, for instructing such of his subjects as live in places where ignorance and Popery prevail, in the principles of true religion ; a just share of which was bestowed for *their* instruction ; *they*, as restless disturbers, have risen in open rebellion against their only lawful sovereign and bountiful benefactor.

“ But to complete our destruction, France and Spain, the avowed enemies of our country, not only of our religion, but of our trade and commerce, are called in to their assistance ; who, whilst they are preparing to invade us at home, are distressing our trade abroad ; with whom we are at open war, on the same principles on which the war was waged in the reign of Queen Anne. The pretence of calling in such dangerous allies, is the assistance given us by the Dutch ; and said to be expected from Danes, Hessians, and Swiss. Let it be considered that these are Protestant states ; that the Dutch are obliged to assist us, by treaty made for their and our safety ; that such aid was

called in, when our army was employed abroad in the common cause of liberty ; and that, as this seems to be the last effort to overthrow the Protestant religion, is it any wonder Protestant powers should join together to defend us ? Our interest, as to religion, is the same with theirs ; and the preservation of it depends upon the defeat of this wicked design.

“ Of all wars, a civil war is the most dreadful ; in which countrymen shed the blood of their countrymen, children rise up against their fathers, and those of the same house are divided against each other ; laws are silent, justice banished, and violence is unrestrained. Such is the dreadful war the rebels have kindled in this nation.

“ If they should be defeated, as we trust in God they shall, *they* may be ruined ; but Scotland is in no danger, as they pretend it is who are already engaged in this wicked attempt, that they may involve others in the same pernicious scheme ; but, on the contrary, our country will be preserved from ruin. Few have joined them on the south side of Tay, notwithstanding their boasted victory at Preston ;—the most considerable clans, in the west and north country, continue faithful to their duty, and zealous in defending the government ;—the great property of the nation is in the interest of the King and government ; and that of the rebels bears but a very inconsiderable proportion to it. What then have the well-affected in Scotland to fear ?—What may they not hope from a sovereign who has been so mild to his enemies ?—And what can be the effect of the destruction of Jacobitism, but the security of our religion, the establishment of our peace, and the increasing the value of our property.

“ Loud complaints are made of insufferable grievances and encroachments upon our liberties, under the benign administration of our most gracious sovereign—to redress which is the pretended design of this wicked rebellion. But how is this heavy charge made out ? Do our enemies pretend to produce any one act of lawless power ever done, or so much as attempted, by his present Majesty or his royal father, through the whole course of their reigns ? No ; but, instead of this, they tell us of some things which are of a doubtful and disputable nature, and about which the wisest, the best, and freest men, have different apprehensions and views. Things are mentioned as encroach-

ments which were never done at all, but barely proposed ; and, after being for some time canvassed by the legislature, were laid aside. And none of the things complained of can be alleged to have been done, or the least attempt made to do them, any otherwise than by law,—law enacted by and with the advice and consent of the representatives of the people, chosen by the freeholders and men of property in the nation. What a degree of impudence must it require, for any man to compare things of this nature with the many known acts of mere power and violence (not only without law, but in the face of the plainest standing laws) done in former reigns before the glorious revolution? about which it was then dangerous to debate, and of which it was held criminal to complain! And how justly might we expect the repetition of such acts of violence, under the reign of one, who claims the crown by the pretended indefeisible right of succession to these princes, extols the equity and clemency of their administration, and sets it before him as the glorious pattern of his intended government?

“ The minds of these men must be monstrously perverted, who can favour a design, the natural and necessary consequences of which must be, the subversion of what Great Britain glories in above all nations, religious and civil liberty! Can we expect liberty from *arbitrary power*,—a free parliament from an armed force,—just laws from lawless men,—the security of our property from the invaders of property,—the protection of our commerce from France and Spain,—the safety of the Protestant religion from a *Popish pretender*,—and toleration of tender consciences from a persecuting spirit?

“ Our own history acquaints us, and there are some yet alive who remember to have seen the best blood of the nation shed on scaffolds, in the cause of religion and liberty; and great numbers of peaceable men fined, imprisoned, and put to death, for serving God according to their consciences; sometimes under form of law, and sometimes without any form of law, by soldiers, who were authorised to do so; who were at once judges, witnesses, jury, and executioners.

“ As we detest the principles of slavery,—as we abhor this flagitious rebellion, and the base methods by which it has been carried on,—so we do, in the warmest manner,



exhort all persons of our communion to persist in that loyalty to our sovereign King George by which they have been always distinguished ; neither to be allured by promises, nor overawed by threatenings, to join with these wicked and deluded men ; and let your honest zeal for our happy constitution, rise in proportion to the violence with which it is attacked. “ We put you in mind to be subject to principalities and powers, to obey magistrates, and to be ready to every good work,” Titus iii. 1. “ Let every soul be subject to the higher powers. For there is no power but of God : the powers that be, are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God : and they that resist, shall receive to themselves damnation. For rulers are not a terror to good works, but to the evil,” Rom. xiii. 1, 2, 3. “ Fear the Lord, and the King : and meddle not with those that are given to change,” Prov. xxiv. 21. “ Submit yourselves to every ordinance of man for the Lord’s sake : whether it be to the King, as supreme ; or unto governors, as unto them that are sent by him for the terror of evil-doers, and the praise of them that do well,” 1 Pet. ii. 13, 14.

“ Cultivate the principles of true liberty, and teach them to your children, that they may not be early ensnared by slavish doctrines, which may render them hurtful to society, and involve themselves and their dearest concerns in ruin.

“ The calamities we in this country have felt, and the judgments with which God has been pleased to visit us, should awaken our consciences, and excite us to a sincere and deep repentance for those sins which have been the procuring causes of them. How insensible have many been of the excellency of that religion we have long enjoyed, pure from idolatry and superstition ? With what contempt has the everlasting gospel of Christ, and his ordinances been treated ? And how little of the power of religion has been seen in the lives of its professors ? How much have profane swearing and horrid perjury abounded ? How much has luxury, the parent of many vices, and productive of the greatest miseries, spread its malignant influence over all ranks ? And how has *infidelity*, *libertinism* and *licentiousness*, prepared the minds of not a few for any form of religion that is calculated for

an indulgence to vice? How much more have men been affected with temporal inconveniencies, and the loss of their goods, than with the danger to which our holy religion is exposed?

“Consider the inestimable privileges you have long possessed; the wonders of God’s providence in the reformation of those nations from Popery; the establishment of that *reformed religion* by the *glorious revolution* under King William; and the confirmation of it by raising the illustrious family of Hanover to the throne of these kingdoms. Let a lively sense of these valuable blessings be continually preserved in your minds; that you may not be shamefully unthankful to God, ungrateful to your worthy ancestors, and unfaithful to your posterity.

“We must earnestly recommend it to all the ministers of this National Church, to endeavour, by public and private instruction, to fill the minds of people of all ranks and ages, as they have opportunity, with a just abhorrence of the abominations of Popery; the terrors of arbitrary power; and of the extreme danger these lands must be certainly exposed to, of being over-run with superstition, tyranny and oppression, if God for our sins should ever suffer the Pretender to reign over us.

“Sensible of the peace, and the many great privileges we have long enjoyed; and the danger to which we are now exposed; let us mourn over our own sins, and the wickednesses that are daily committed in the land, which have drawn down these heavy judgments upon us:—*Let us search and try our ways, and turn again unto the Lord*; that, for Jesus’ sake, he may have compassion upon us, pardon our sins, prevent our ruin, and strengthen what he has wrought for us.

“Let us, in the most earnest manner, address Almighty God of infinite mercy, through the blood of our Lord Jesus Christ, to pour down a *spirit of grace and supplication*, of *repentance and reformation*, upon all ranks of men: that he would enable us to *walk worthy of the gospel of Christ*, and animate us with a temper of mind suitable to it: that he would teach us to improve the present awful dispensation of his providence; unite us in the bonds of peace and truth; and give us all one heart and one way, to fear him and keep his commandments always; that God may dwell with us, and with our posterity after us.

Let us fervently pray, that God may eminently bless our only rightful sovereign King George, and all his royal family; protect his person, from all the secret and open attempts of his enemies; establish his throne; direct his councils; and give success to his arms by sea and land, at home and abroad.

“As we pity those unreasonable men who have risen up against us; so let us all heartily pray to God, that he would convince them of their folly and wickedness; give them repentance unto life, and the forgiveness of their sins; that, being reclaimed from the error of their way, the further effusion of blood may be prevented; but that, if they should still persist in this unnatural rebellion, God may defeat it; and make it a means of strengthening our happy constitution, and of discouraging for ever all attempts of this nature.”

The above warning and exhortation, having been sundry times read and fully considered, was this day unanimously approved by the Commission; and they appoint the same to be forthwith printed, and copies thereof to be sent to all the ministers of this Church; who are hereby appointed to read the same from their pulpits, each of them the first Lord's-day he conveniently can, after it comes to his hands; and the several Presbyteries are to inquire particularly into the observation of this Act.—Subscribed by

WILL. WISHART, *Modr.*  
RO. MACKINTOSH, *Clk.*

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1746.

MEETING OF THE COMMISSION IN MARCH.

The Commission met on the 13th March, and addressed the King on the success of his arms under his son, the Duke of Cumberland, “in driving these audacious rebels to the remoter parts of the island.” The battle of Culloden followed about a month afterwards, viz. on the 16th April.

## ASSEMBLY, 1746.

The members of the General Assembly met at Edinburgh on Thursday the 8th of May, agreeably to the appointment of the Assembly, 1745; but the Earl of Leven's Commission, (though his Lordship was named to represent the King,) was not yet come down. As the civil and ecclesiastical powers are each very jealous of their rights and privileges, and as the former contend, that there can be no legal Assembly without a Commissioner, while the latter hold the contrary, the Assembly's conduct was now very much the object of public attention. Principal Wishart, the Moderator of last Assembly, preached in the High Church,\* and then the members met in the Assembly-house; which is the ordinary method of proceeding. The first thing commonly done after meeting, is to choose a new Moderator; but, at this time, Principal Wishart was continued for the first diet, and likewise for that of next day, which was spent in prayer, as usual. Upon hearing, at this second diet, that an express was arrived with a commission to the Earl of Leven, the Court adjourned till next day, the 10th. But the difficulty was not yet removed: for, by some mistake, the Commissioner was not authorised to act till Friday the 16th. On the 10th, an overture was offered in writing by a member, That, for preparing of business, a committee for overtures should be appointed, for hearing causes, and preparing an overture and opinion upon each cause to the Assembly, for preventing of long debates. Other members proposed, That the Assembly should adjourn till Friday the 16th. After reasoning, the question was put, "*Proceed* at this diet to the choice of a Moderator, and to name the usual committees, with power to them to meet from time to time upon the business proper for each of them; and then adjourn the Assembly till Friday next?" or, "*Adjourn* now the next meeting of the Assembly till Friday next?" and it carried *Proceed*. Then Mr. John Lumisden, Professor of Divinity in the King's College, Aberdeen,

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\* His sermon was printed under the title of "*Public Virtue Recommended.*" One of the preachers before the Commissioner was Mr. *Hugh Blair*, then one of the ministers of Canongate, having been translated from Collesie, in Fife, in 1743. His sermon also appeared, with the title, "*The wrath of man praising God.*"



was chosen Moderator, the usual committees were named, with power to adjourn as they should think fit, and the Court adjourned till Friday the 16th. By thus entering on business, choosing a Moderator, and naming their committees, the Assembly asserted the Church's right of holding valid national assemblies without the Sovereign or his Commissioner; and by delaying to determine any cause till the Commissioner met with them, they obtained the royal sanction to all their proceedings. It is however observable, that though the Assembly considered themselves as regularly constituted on the 8th, 9th and 10th of May, and had minutes of their proceedings on these days made out by their Clerk in the common form; yet, in the *London Gazette*, which is published by authority, the Assembly is said to have met, and to have chosen their Moderator, on the 16th, being the day that the Commissioner met with them.

On the 16th the Court met with all the usual solemnities, the High Commissioner being seated in state on the throne. After his Grace's commission was given in, and the King's letter read, a committee was named to draw up an answer to it, and likewise a congratulatory address to his Majesty on the victory at *Culloden*.

The business of greatest importance before them, was, the settling the offices of *Procurator for the Church*, and *Principal Clerk* to the General Assemblies and Commissions. These offices were conferred on Mr. William Grant, advocate, by an Act of Assembly, May 13, 1731; "with power to him to exercise these offices, and to enjoy the emoluments, profits, and privileges belonging thereto, as fully and freely as Mr. John Dundas of Philipston, [then lately deceased], or any other his predecessors, enjoyed the same." Before the year 1737, Mr. Grant, having had necessary occasion to be absent from two Assemblies, was excused, and did officiate by a depute. That year, having been appointed the King's Solicitor for Scotland, he represented to the Assembly, That he might possibly at some times have necessary occasion to be absent again, and therefore desired in such case to be allowed a power of deputation. The Assembly, "being resolved to confer a mark of their favour and regard for him, enacted May 24, 1737, That it should be lawful for him, as often as he should be necessarily absent, to depute

any other person to officiate for him as Clerk to the General Assemblies or Commissions ; providing, (among other things), that in case Mr. Grant should at any time receive or accept of any office which the General Assembly should judge incompatible with his present office, that then and in that case this Act should not be constructed to import that he might then act by a depute." A few months before the meeting of the present Assembly, Mr. Grant was appointed King's Advocate; and, being detained at London upon his Majesty's service, he deputed Mr. George Buchan of Kello, to officiate for him at the Assembly during his absence, hoping to be present himself before the close of it. This deputation was taken under consideration on the 20th. The Acts 1731 and 1737, above quoted, were read in Court ; the import of them, and the nature of the office Mr. Grant had accepted of from the crown, and of the offices he held of the Church, were reasoned upon at great length ; and then it was proposed to put the question, " Whether the offices of Procurator for the Church, and Principal Clerk to the General Assembly, are now at the disposal of the Assembly," or " Not?" A preliminary question was however moved for, and put, viz. " Proceed now to put the above question ;" or, " Let the affair lie over till next Assembly?" It carried *Proceed*, by a great majority. The principal question was then put, *Disposal* or *Not ?* and it carried *Disposal*, likewise by a great majority.

The Assembly then proceeded to dispose of the above offices. A motion was made, and after reasoning, agreed to, That as the Procurator's business and the Clerk's were distinct, the offices should be conferred on different persons. Messrs. James Areskine, junior, (son of Lord Tinwald), and David Dalrymple, (son of Lord Drummore), advocates, were candidates for the office of Procurator ; and the latter carried it. Therefore the Assembly " elected, constituted, and appointed the said Mr. David Dalrymple, advocate, to be *Procurator for the Church* ; with power to him to exerce that office, and enjoy the emoluments, profits and privileges thereof, during pleasure, as fully and freely as Mr. William Grant, or any other his predecessors, enjoyed the same." And Mr. Dalrymple having appeared, took the oath *de fidei*.

The Court next proceeded to the choice of a Clerk.

Mr. George Wishart, one of the ministers of Edinburgh, and Mr. Robert Paton, minister at Renfrew, were the candidates. A motion was made, That both should be conjoined in the office. Mr. Wishart declined standing for the half, or any part of it; but Mr. Paton was willing to serve in conjunction with another. After reasoning, various states of a vote were proposed, but the discussion was adjourned till next day, when a motion was made for putting the question, "Whether Mr. Wishart or Mr. Paton shall be Clerk?" Thereupon the previous question was put, "Agree to put the above question," or "Not?" it carried *Agree*. Then the first question being put, it carried *Mr. Wishart*. Therefore the Assembly "elected, constituted, and appointed the said Mr. George Wishart, to be *Principal Clerk* to the General Assemblies of the Church of Scotland and Commissions thereof; with power to him to exerce that office, and enjoy the emoluments, profits and privileges thereof, during pleasure, as fully and freely as Mr. William Grant, or any other his predecessors, enjoyed the same." And Mr. Wishart, having taken the oath *de fideli*, took his place. Some arguments used in the debate upon the question, Whether the above offices were at the Assembly's disposal? occasioned the adding the words *during pleasure* in the commissions now granted.

A committee appointed to inspect the records, reported, on the 22d, That the Church's public money was at first received and paid out by the Agent for the Church, and thereafter by Messrs. Dundas and Grant, successively, designed *Procurators for the Church*; that the Royal Bounty was paid into their hands, by a special commission from the Assembly; and that the yearly salaries allotted for the respective offices, appear to have been, 1200 merks for the Clerk, 1000 merks for the Procurator, and £25 sterling for the Cashier of the Royal Bounty. After reasoning, a motion was made, That the whole of the money, *i. e.* the £500 yearly granted by the King for defraying the public charges of the Church, and the £1000 Royal Bounty for reformation of the Highlands, be lodged with the Procurator, and that the Principal Clerk have no trouble about it. Which, upon the question put, carried in the affirmative. Thereupon Mr. Dalrymple was appointed receiver and disburser of said money, and ordained to find caution.

Presbyteries were appointed to inquire into the behaviour of office-bearers in the Church during the late unnatural *rebellion*, to carry on proper processes against offenders, and to call all others before them that may have been guilty in this respect, and censure them, according to the degree of the offence, and as shall be judged for edification. Ministers and Presbyteries, to take care that all teachers of youth within their bounds be qualified in terms of law.

Kirk-sessions enjoined to keep a record of the name, and time of death, of every person dying within their respective parishes, and interred in their ordinary burying places.

A congratulatory letter was sent by the Assembly to the *Duke of Cumberland*, and a committee appointed to compliment his Royal Highness upon his arrival in this country, and his victory over the rebels.

The Commission received the Assembly's thanks for their faithfulness, and particularly for the *seasonable warning* and *exhortation* emitted by them in November last.

On the 22d, the Assembly appointed a national thanksgiving for our surprising deliverance from the late wicked and unnatural *rebellion*, to be observed on the fourth Thursday of June; and that humble application should be made to the King, for the royal sanction,\* in order to the more effectual and due observation of it.

The General Assembly do recommend to private families, that in their religious exercises, *singing the praises of God*, they go on without the intermission of *reading*

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\* In reply to this application, an order of the Privy Council, dated June 12, gave the required sanction. It ran thus:—"Whereas the Right Hon. the Earl of Leven, late his Majesty's High Commissioner to the General Assembly of the Church of Scotland, hath represented to his Majesty, That, in pursuance of his Majesty's instructions, empowering him to allow the said Assembly to name a day of thanksgiving for the late victory over the rebels, the said Assembly had, upon consulting with the said late High Commissioner, agreed upon the 26th of this instant June for that purpose, and therefore humbly requesting his Majesty's royal sanction for observing the thanksgiving on that day, &c." The 26th of June was accordingly observed as a thanksgiving all over Scotland. On the Lord's-day previous, some ministers read the Order of Council along with the Act of Assembly: others it is said, excepted to the words in the Order of Council "*empowering the High Commissioner to allow the Assembly to name a day of thanksgiving*;" and therefore, instead of reading the Order of Council, only mentioned that the royal sanction had been obtained, in order to the more effectual and due observation of the day.



*each line*: And do recommend to schoolmasters in the several parishes, that they be careful to instruct the youth in singing the common tunes.

The General Assembly appoint, that the abbreviate of the Laws and Acts of Parliament against *profaneness* and *immorality* be reprinted, and copies thereof sent to the several ministers of this Church, to be read from the pulpits of their respective churches.

An appeal of some magistrates, heritors, and others, of the town and parish of *Queensferry*, callers of Mr. Walter Punton, minister of the gospel, to be their minister, from a sentence of the Synod of Lothian and Tweeddale, reversing a judgment of the Presbytery of Linlithgow, sustaining their call to Mr. Punton, heard; and the said Synod's sentence sustaining a call of others of the magistrates, heritors, and others of the said town and parish, to Mr. Archibald MacAulay, probationer, to be minister of *Queensferry*, affirmed, and the said Presbytery appointed to proceed to his trials and settlement.

The sentence of the Synod of Angus and Mearns, reversing a judgment of the Presbytery of Forfar, giving their Presbyterial call and presentation to Mr. William Brown, probationer, to be minister of the parish of *Cortachy*, and proposing him only to the congregation. And further, appointing the said Presbytery to have a moderation at large at Cortachy, betwixt and the first of July next; and that at the moderation, they shall allow none to vote in the calling of a minister, or signify their consent to, or dissent from such call, who shall appear to have been guilty of rebellion. Reversed, *in respect of the peculiar circumstances of the said parish, on account of the disaffection in general of the people thereof to the Government*. And the said Presbytery appointed to proceed to the trials and settlement of the said Mr. Brown to be minister of Cortachy and Clova.

The said Presbytery of Forfar thanked for their zealous appearance in discouraging the rebellion in that part of the country, and their care of the interest of the Church in that corner.

A petition of the patron, and others of the parish of *Moffat*, callers of Mr. Edward Johnston, probationer, to be minister there, and of Mr. Johnston himself, tabling certain appeals taken from the Synod of Dumfries, affirm-

ing several interlocutors passed by the Presbytery of Lochmaben, upon the articles of a libel exhibited before them against Mr. Johnston by the parishioners of Moffat, opposers of his settlement there, read. And the 4th and 6th Articles referred to the Assembly's determination, being first read over, viz. Article 4th, That the said Mr. Johnston had been guilty of frequent banning, swearing and cursing, in and about Cumlongan, Annan and Carlisle, and other places, by using these and the like expressions, "by GOD, Faith, Conscience, and the Devil take yourself, or others, &c." Article 6th, That Mr. Johnston had asserted in his defences, that all the Articles of the libel given him by the Presbytery, though proven, are not sufficient to depose a minister, and consequently not sufficient to hinder him from being admitted minister of Moffat. The Assembly sustained these two Articles relevant to infer censure. The other Articles of the libel found relevant by the Presbytery and Synod, from whose judgments appeals were taken, being read, viz. Article first, That, in the month of June, 1743, in the house of Lady Warranbie in Annan, Mr. Johnston was desired to explain a written sentence below a picture in the room; when he had told what the two pictures were on each side, he uttered that profane, impious and irreligious expression, "That little fellow in the middle is our Saviour," very like that diminutive and impious expression of the Jews, recorded in Matth. xxvi. 61, Luke xxiii. 2, and in other places of scripture; the Assembly sustained the said Article relevant to infer censure. The second Article of the libel, That, sometime in May 1744, in Mr. Johnston's father's house in Annan, when speaking of the holy scriptures, he averred, that that phrase, so frequent in the Old Testament, "Thus saith the LORD," was only a by-word of the prophets, and not a saying of the LORD'S; being read, the Assembly found this Article relevant to infer censure. The third Article being read, viz. That in the latter end of April, or beginning of May, 1744, Mr. Johnston had travelled to Applebie on the Sabbath-day, and *caused a barber shave him on that day*: The Assembly, after reasoning, found the first branch of that Article not relevant, as laid in the libel; but found the second branch thereof, *respecting his shaving*, relevant to infer censure. The fifth Article, viz. That he had asserted in his defences

given in to the Presbytery, that banning and swearing are trifles as to their matter, was read, and the Assembly found that Article relevant as laid to infer censure. The seventh Article being read, viz. That Mr. Johnston had openly asserted a falsehood, and which he knew to be a falsehood, standing in the Commission in November, 1744, viz. when it was asserted, that he had given two guineas at Applebie to escape a process before the spiritual Court, he asserted that to be a lie : The Assembly found the said Article relevant. Next there was read an additional Article given in to the said Presbytery the 13th August last, viz. That, in October last, Mr. Johnston denied before the Synod of Dumfries, that he was admonished by the Moderator of the Presbytery of Middlebie, before the Presbytery while sitting, and said that only a member came to the door, and spoke to him, whereby he uttered a falsehood, and what he himself could not but know to be a falsehood, for that he was publicly admonished in face of the Presbytery by their Moderator. The Assembly agreed to dismiss this Article, saving and allowing nevertheless to Mr. Johnston, all just grounds of exculpation, and a proof of facts respecting any of the above Articles found relevant. And the Assembly appoint, that any references or appeals that may be made in this process, be brought in the usual channel to the Synod, and next General Assembly.

Act declaring the dues which were in use to be paid, ever since the Revolution, to the *Clerks of the Assembly*, by the Commissioners from Presbyteries, &c. at delivering in their Commissions, do belong to the Clerks ; and recommending to the said Commissioners hereafter punctually to pay the said usual dues, when they give in their Commissions to the Clerks to be enrolled as members of the General Assembly.

A petition of Mr. Thomas Montfud, minister of Kilmalie, craving relief in his present distressed circumstances, occasioned by the *want of his stipend resting by these in the rebellion*, remitted to the committee on the public accounts.

A petition of some heritors, elders, and heads of families, of the parish of *Roberton*, callers of Mr. John Rodger, probationer, resuming the proceedings had by the two last General Assemblies in the cause, and craving this Assem-

bly would give judgment therein, read; as also a letter from the Duke of Douglas, in answer to that sent him by order of last Assembly, earnestly desiring the Assembly would review the process, as referred by the Presbytery of Lanark, and give such sentence as may determine the settlement of Mr. William Nimmo presented by him, and to whom a number in the parish signed a call; and the Assembly appointed the said Presbytery to proceed to the said Mr. Nimmo's trials and settlement, as minister of Robertson.

Act and overture about *licensing probationers*, re-transmitted.

Overture about *translations* and *paraphrases* of several pieces of sacred scripture, re-transmitted.

Overture about *processes* against *probationers*, re-transmitted.

Mr. Niel MacLeod, probationer, remitted by the last General Assembly to the Presbyteries of Syke and Uist, to be taken on trials, in order to his settlement as minister of *South Uist*, but found by them unqualified; and he failing now to compear, it is left to the Presbytery of Uist to proceed to the settlement of the said parish according to the rules of this Church.\*

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\* This is one of the cases of settlement, which Dr. Lee, in his evidence before the Committee of the House of Commons on Patronage, in 1834, justly represented as *remarkable*. (*Report*, Quest. 3041, 3042.) "There was a royal presentation, and the Presbytery contrived to evade the reception of that presentation by a manœuvre that most people would look upon as not very correct, by holding their meeting at a different time and a different place from what was common; so that the person who came with the presentation was never able to find them out, and then they said that the right had devolved upon the Presbytery; and Mr. Macaulay, one of the ministers, had influence enough to have his own son called by the Presbytery to the charge, and the General Assembly sustained the settlement of that particular individual. [The Doctor should rather have said, they gave the Presbytery the right of appointing their own man; for Macaulay's *second* settlement did not come before the Assembly, though the *first* did in 1745.—See p. 73.] It was a very singular circumstance, that the Presbytery themselves had been in the habit of giving annual recommendations of the individual who was presented by the King, for he had been six years in their bounds as a missionary, on what is called the Royal Bounty, and the whole heritors and elders, and almost all the heads of families, were favourable to the expectations of this candidate; but the Presbytery afterwards alleged that this person was unqualified, and they said the reason why the heritors preferred him was, that he was so very weak a man, and unfit to contend with the Popish priests. The heritors were in general Roman Catholics, and although the Presbytery had been in the habit of annually certifying this person's capacity for the situation



The Moderator represented, that he, with several other members, had paid the compliments of this Church to his Serene Highness Prince *Frederick of Hesse-Cassel*,\* now present in the Assembly, which the Assembly approved of.

The petition and complaint of the parishioners of *Crosskirk* in Orkney, dismissed, in respect there are no extracts of the sentence of the Synod appealed from produced, and the appeal declared fallen from and void.

The appeal of Sir William Maxwell of Springkell, as patron, and of others of the parish of *Kirkpatrick-Fleming*, callers of Mr. Anthony Black, probationer, to be minister there, from a sentence of the Synod of Dumfries sustaining a call of others of the said parish to Mr. James Currie, probationer, to be minister thereof, heard, and the Synod's sentence is unanimously affirmed, and the Presbytery of Annan appointed to proceed to Mr. Currie's trials and settlement, according to the rules of this Church.†

A proclamation issued by his Royal Highness the Duke of Cumberland, for discovering such of the *rebels* as have carried arms, and such as harbour or entertain them, appointed to be read in all the Churches within Scotland.‡

which he held in a Roman Catholic district, they afterwards declared that they considered him as not fit for that particular parish." This is not the only time that the Presbytery of *Uist* has grasped at the *jus devolutum*. The late Mr. Macgillivray of Kilmalie, (formerly of Lochgoilhead), used to tell an amusing story of his repairing in all haste, and in the depth of winter, to a meeting of that Presbytery, to lodge with them a presentation he had received to the parish of *Barra*, when the six months were on the point of expiring. He did not succeed in reaching the island till the afternoon, when, as he was hurrying on, he met some persons on horseback, to whom he put a question as to the Presbytery meeting. One of their number replied:—"We are the Presbytery: and if you are, as we suppose, a presentee to Barra, you are too late; for (pointing to one of the cavalcade) we have just appointed this gentleman." In the Assembly, 1837, the *Portnahaven* case developed a similar spirit in the newly-erected Presbytery of Islay.

\* He had come to Scotland in command of the Hessian troops, sent thither on account of the Rebellion.

† There was a counter-presentation by the Marquis of Annandale to Mr. Currie. The Presbytery appointed a call *in general*, which turned out in his favour.—See the *Commons' Report on Patronage. Appendix, p. 24.*

‡ This proclamation bore, "that the officers of the law were to take informations from the ministers of the gospel of the Established Church of Scotland, touching the behaviour of the inhabitants within their respective parishes, and of the present haunts and places of abode of such rebels as may be lurking in their several neighbourhoods: And the said ministers of the gospel, and all others his Majesty's dutiful subjects, who shall have any knowledge of the places of abode or lurking places of such rebels, and of the places where such arms may be lodged, are hereby required to give information to the officers of the law aforesaid." Some

Order for allowing Mr. *James Man*,\* probationer, inspection of the records, or other manuscripts in the Clerk's hands, for enabling him to prosecute his design of publishing an historical account of affairs transacted in Scotland, from the beginning of the civil wars to the conquest of Scotland by Oliver Cromwell.

*May 23.* The General Assembly was concluded with prayer, and singing the 133d Psalm, and pronouncing the blessing.

The following letter from his Royal Highness William Duke of Cumberland, to his Grace the Commissioner, came to hand *per express* on the 26th May, three days after the rising of the Assembly :—

*“ Inverness, the 21st May, 1746.*

“ MY LORD COMMISSIONER,—The meeting of the Venerable the General Assembly of the Church of Scotland, furnishes an occasion I have wished for, of expressing publicly the just sense I have of the very steady and laudable conduct of the clergy of that Church, through the whole course of this most wicked, unnatural, and unprovoked rebellion.

“ I owe it to them in justice to testify, that, upon all occasions, I have received from them professions of the most inviolable attachment to his Majesty's person and government, of the warmest zeal for the religion and liberties of their country, and of the firmest persuasion, that these blessings could not be preserved to the nation, but by the support of his Majesty's throne, and of the succession in his royal family; and, in support of the sincerity

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ministers it is said, did read the proclamation from their pulpits; others left the reading of it to their precentors. Mr. Liod, the Sheriff of Mid-Lothian, addressed a letter to every minister in that county, desiring them (by order of the Lord Justice Clerk) to “make up lists of all those in their parishes who had not been concerned in the rebellion, either by carrying arms or otherwise;” or, “a list of those only who had been concerned in the rebellion.” The ministers in and near Edinburgh respectfully declined the duty, and so it is presumed did most of the clergy of the Church. Another of the Duke's proclamations required the rebels to deliver up their arms to a Magistrate, or “Minister of the Church of Scotland.”

\* Apparently the same person, who distinguished himself by his defence of George Buchanan against Ruddiman. He was born in Morayshire about the year 1700; was, if I mistake not, master of the Poor-house in Aberdeen, and died in 1761. The work referred to in the text seems never to have been published.

of their professions, I have always found them ready and forward to act, in their several stations, in all such affairs as they could be useful in, though often to their own great hazard ; and of this I have not been wanting to give due notice from time to time to his Majesty.

“ I must desire your Grace to assure the Venerable the General Assembly, of the very sincere acknowledgment I shall always feel, for the particular marks of good-will and affection I have received everywhere from the clergy, of my regard and esteem for their body, and of my good wishes for all its members.

“ I heartily wish success to the good work you are upon for the service of his Majesty, and the true benefit of his faithful subjects. I am,

“ My Lord Commissioner,

“ Your Grace’s most affectionate friend,

WILLIAM.”

At the meeting of the Commission (after the Assembly had risen) there came before them a reference from the Presbytery of Zetland for advice. The case was : George Hughson desired to be married to Margaret Mowat, who was widow of Andrew Mowat, son of Hughson’s former wife. The Presbytery thought them within the *forbidden degrees* of affinity mentioned Conf. ch. 24, art. 4. But the Commission were of opinion, that such marriage is not contrary to the word of God, our Confession of Faith, or the laws of the land; and advised the Presbytery accordingly.

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COMMISSION MEETING IN NOVEMBER.

At the Quarterly Meeting of the Commission, Nov. 12, letters were read from brethren in the north, representing their distresses by parties of robbers [*rebels* who had become *broken men*] coming down upon their houses in the night. A committee was appointed to communicate this to the Earl of Albemarle, [Commander-in-Chief in Scotland after the departure of the Duke of Cumberland.]

1747.

## COMMISSION MEETING IN MARCH.

At this meeting also, complaints were made by the Presbyteries of Aberdeen and Aberbrothock, of depredations committed on the houses of ministers by *outstanding rebels* ;\* and the Commission resolved to lay the affair before the Lord Justice Clerk and Maj.-Gen. Huske.

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 ASSEMBLY, 1747.

The General Assembly of the Church of Scotland met on the 7th May, and chose Mr. Robert Kinloch, one of the ministers of Edinburgh, Moderator. The Earl of Leven was his Majesty's High Commissioner.

Most of the business of the Assembly related to settlements. Some heritors who claimed votes in the calling of ministers were objected to, because they had not taken the public oaths, in terms of the Act of Parliament 1693. Mr. Patrick Turnbull, and Mr. Robert Young, probationers, having each of them got a call to be minis-

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\* As a specimen of these outrages we give the following :—" On the 16th of October (1746), about 10 o'clock at night, a party of armed men invaded the house of Mr. Robert Abercrombie, minister at Lesly in Aberdeenshire, and demanded £100 sterling, under very severe threats. Being told that there was not such a sum in the house, they got the keys of the cabinets, presses, &c. and carried off the minister's watch, seven guineas, and some shirts, table-linen, body-clothes, &c. The same night they entered the house of Mr. Alexander Strachan, minister at Keig, after the family were in bed, demanding the like sum ; and robbed the minister of his watch, some of his own and his wife's body clothes and linen, a silver jug and spoon, &c. Next they went to Mr. Garioch's of Tulloch. This gentleman being from home, they searched his house for money ; and getting none, they carried off some of the lady's clothes, and threatened the house with a second visit."—" Letters from Aberdeen bear, that on the night of the 28th of Feb. (1747), five armed men, supposed to be rebels, came to the house of Mr. Robert Melvill, minister of Dores, broke open his cabinets, and carried off all his most valuable effects ; and that they afterwards robbed Mr. Harper, schoolmaster, of £30 sterling."



ter of *Strickathrow*,\* and the Presbytery of Brechin having sustained Mr. Turnbull's call, the Synod of Angus and Mearns unanimously reversed the Presbytery's sentence, and sustained the call to Mr. Young; for this among other reasons, "That though the heritors voting for Mr. Turnbull at the moderation of the call, were required to give documents of their being qualified to his Majesty, or immediately to qualify, in order to entitle them to vote at said moderation; and though two of the foresaid heritors, since the moderation, have in Presbytery declared their willingness to qualify; yet they have not offered the smallest evidence to the Synod of their being qualified in terms of law." This objection was likewise pled upon in the Assembly. It was answered, That no church-judicature has power to administer the government-oaths; that the Act 1693 was but a temporary law; and that, in practice, such an objection had not been sustained these fifty years past. It was replied, That the Act 1693 is not in desuetude; that it is by it the members of incorporations are bound to qualify before they vote in the election of deacons; and that though this objection is not commonly moved at elections of ministers, it is however competent, and, when moved, cannot in justice be repelled.

A recommendatory letter for Mr. Young was taken notice of. His callers speak of it thus, "We must beg leave to remark here, that there was laid before the Presbytery, 23d July, 1746, and stands recorded before the minutes of moderation were called for, a letter from the secretary of a young prince, whose memory in after ages will be revered by the lovers of liberty and the British constitution, setting forth, That his Royal Highness had received very ample testimonials of the good affections and services to his Majesty and his government, of Mr. Robert Young, probationer; and that their countenance to him would be a very clear and public mark of their ap-

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\* "The vacancy occurred in November, 1745. The patron did not exercise his right. The Presbytery appointed a call under the *jus devolutum*. There voted for the one candidate, 2 heritors, 3 elders, and 58 heads of families; for the other, 5 heritors, 4 elders, and 27 heads of families.—Heritors and elders, 14; heads of families, 85; total, 99." For this and the other notes on disputed settlements, during the year 1747, I am indebted to Mr. *Whigham's* Evidence before the Commons' Church Patronage Committee, p. 448.

probation of his zeal in times of so general a disturbance. One would have thought this letter, joined with so good a cause, might have had its own weight, and made the Presbytery cautious of giving what they term their Presbyterial call in favour of Mr. Turnbull." The callers of Mr. Turnbull endeavour to retort the argument. Their words are: "The appellants cannot pass over one shift that was used, in order to influence this settlement; which, instead of working to their benefit, it is hoped will with the Venerable Assembly be considered as a *most dangerous and sinister stratagem*, not to be attempted to be made a handle of in Church-settlements. The case was this: The moderation having been held upon the 2d of July, it was closed on the 9th; and the committee made their report to the Presbytery: and, when the Presbytery had proceeded some length in the merits of the case, it was artfully proposed, that all further procedure should be superseded for a fortnight. And, during this interval, some of the party adhering to Mr. Young, repaired to Fort Augustus, and procured from Sir Everard Fawcener, [Secretary to the Duke of Cumberland,] a letter of a most extraordinary style, said to be written by leave of his Royal Highness, recommending Mr. Young to the Presbytery, as a person well affected to the government, well fitted for the charge, and *said to be extremely desirous to fill it*. This letter came to the Presbytery's hands full three weeks after the moderation in the call had been finished, and when the Presbytery were just ready to pronounce their sentence. The Presbytery wrote a most respectful answer; but signified to him, that, as they were judges, they were sure it was not his meaning, that they should be biassed in their judgment, or that they were to proceed otherwise than according to justice and equity, and the established rules of the Church; which was the only reason why they could not comply with his request or recommendation. It will be easy for the Venerable Assembly to see the consequences of such practices: for though the affection and loyalty of this Church is well known towards his Majesty's person and government; yet it is hoped the Church of Scotland will never be so far corrupted, or turn so political and fawning, as to suffer even the highest influence to overturn the established rules of the Church, in a settlement of ministers of the gospel.

This would be a prostitution of the character of any christian church.”—Mr. Turnbull’s call was sustained by the Assembly.

An overture was transmitted to Presbyteries in order to have their opinion against next Assembly, whether it should be turned into an Act, viz. “That none shall be admitted to vote in the *call* of a minister of the Church of Scotland, who either have twice heard sermon or attended divine worship performed by a nonjurant Episcopal minister or preacher in Scotland, where his Majesty King George and the Royal family were not prayed for in express words, within twelve calendar months immediately preceding the vacancy of the church to be supplied; or who, during any part of the said twelve calendar months, have received sealing ordinances dispensed by such ministers; and that it shall be competent to prove the said facts by the judicial declaration of the person claiming a vote and objected to, or by any other mean of proof known, competent in law; and that no proxy from any person claiming a vote shall be sustained, unless there be annexed to the commission of proxy a subscribed declaration, bearing, that the party granting it does not fall under any of the exceptions above mentioned.”

A committee appointed to consider a petition of Mr. John Matthie, minister of *Colessie*, and a reference from the Presbytery of Cupar concerning the elders of the parish of Colessie, being only two in number, who do not attend gospel ordinances in their parish church, nor keep session with their minister, but without his knowledge or consent give lines to persons for sealing ordinances, in which practices they are countenanced by some ministers of the said Presbytery, in so far as these ministers admit people to the sacrament of the Supper, and baptize their children upon such lines from the said elders. The report of the committee was brought in next day, and in consequence thereof the Presbytery of Cupar are appointed, at their first regular meeting after the Assembly, to cause summon the elders of Colessie to appear before them at their next subsequent meeting, and to require them to submit to Mr. Matthie’s ministry, and to return to the regular exercise of their office, which, if they refuse, the Presbytery are enjoined to depose them *instantly* from their office of eldership; and the Presbytery of Cupar, and

all the ministers thereof, are enjoined not to admit the parishioners of Colessie to sealing ordinances, without a certificate from the minister of that parish, bearing his being satisfied that they are worthy of church-privileges.

The sentence of the Synod of Lothian and Tweeddale, sustaining a call to Mr. Patrick Baillie, probationer, to be minister of *Borrowstounness*,\* affirmed, and the appeal taken there-against for his Grace the Duke of Hamilton, dismissed.

An appeal of Sir James Carnegie of Pittarrow, and others, callers of Mr. George Campbell, probationer, to be minister at *Fordoun*,† from a sentence of the Synod of Angus and Mearns, sustaining a call, by others of the said parish, to Mr. William Forbes, probationer, and reversing a sentence of the Presbytery of Fordoun, sustaining a call by the appellants to the said Mr. Campbell heard—the Synod's sentence sustaining the call to Mr. Forbes affirmed, and the Presbytery appointed to proceed to his trials and settlement as minister of Fordoun.

A committee appointed to consider the *laws relating to the poor*, and receive in proposals from the several Presbyteries, or others, in order to their concerting a plan for the maintenance and employment of the poor of Scotland, to be laid before the Commission, who are empowered, if they think it necessary, to transmit a scheme thereof to the several Presbyteries, who are to keep a correspondence with the heritors and justices of peace, in their several bounds, upon the subject, that they may report their opinion thereupon to the next Assembly.

A judgment of the Synod of Fife, affirming a sentence of the Presbytery of Cupar, sustaining a call to Mr. Geo.

\* "Vacancy, November 1745. The patron's (the Duke of Hamilton) commissioners give a trial to the parish of three candidates. A call was moderated in favour of two of the candidates. For the one voted 56 heritors and elders; for the other 19 heritors. For the first 120 heads of families adhered. The patron, after the parish had been a year vacant (the time being extended by "the Rebellion Act"), exercised his right of presentation, with the view of terminating the heats and disturbance which the contest had occasioned in the parish."—*Whigham*.

† "Vacancy, 15th October, 1746. Call moderated by Presbytery on 8th April, 1747 (a few days within the six months). Two candidates. Ten heritors, four elders, and 78 heads of families, voted for the one; five heritors, five elders, and 210 heads of families, for the other. Heritors and elders, 24; heads of families, 288; total, 312."—*Whigham*.



Simson, probationer, to be minister of *Falkland*,\* affirmed.

The sentence of the Synod of Aberdeen, sustaining a call to Mr. William Innes, probationer, to be minister of *Skene*,† and reversing a sentence of the Presbytery of Aberdeen, sustaining a call to Mr. George Abercromby,‡ minister at Footdee, to be minister at Skene, affirmed; and the Presbytery of Aberdeen appointed to proceed to Mr. Innes's trials and settlement.

The Presbytery of Cupar appointed to proceed to the trials and settlement of Mr. James Bruce, probationer, to be minister of the parish of *Dunbog*.||

The sentence of the Presbytery of Dumfries, sustaining a call to Mr. William Clark, probationer, to be minister of *Kirkgunzeon*,§ affirmed; and he having, upon a former occasion, passed his second trials before the Presbytery of Kirkcudbright, the Presbytery of Dumfries are appointed, upon a proper certificate from the said Presbytery of Kirkcudbright of their approbation of Mr. Clark on these his trials, to proceed to his settlement in the parish of Kirkgunzeon.

The sentence of the Synod of Galloway, affirming a sentence of the Presbytery of Kirkcudbright, refusing,

\* "Call by Presbytery, on 10th July, 1746. Two candidates put on the list. There voted for the one, 30 heritors, 2 elders, and 143 heads of families; for the other, 63 heritors and elders, and 145 heads of families. Heritors and elders, 95; heads of families, 288; total, 383."—*Whigham*.

† "Vacancy occurred in June, 1746. Patron declined exercising his right, and left the election to heritors and elders. There voted for the one candidate, 1 heritor, 7 elders, and 117 heads of families; for the other, 9 heritors, 2 elders, and 92 heads of families."—*Mr. Whigham* gives the following additional particulars in his Examination (Ques. 2790). "It was objected that the town of Aberdeen had no right to vote as heritors, because they were a corporation. It was objected to one elector voting for Mr. Abercromby, that he was *poor*, and received money once and again from the congregation in charity. *Answer*. That he never received money in charity, —a small sum is, indeed, stated in the Kirk-session accounts, which was paid for putting up and taking down the Communion tables, he being a wright. What the term heritor meant was a fruitful source of litigation. Then as to heads of families, the objections generally were that they were not in communion—that they had wavered in their views, &c."

‡ Probably the same person who was afterwards one of the ministers of the East Church, Aberdeen, and father of the eminent physician in Edinburgh of the same name.

|| "Case of a call under protest on the part of the Crown, as patron."—*Whigham*.

§ "*Jus devolutum*. For the one candidate there voted, 3 heritors, 2 elders, and 21 heads of families (tenants), and 6 cottars; for the other, 2 heritors, 1 elder, 15 heads of families (tenants), and 24 cottars. Heritors and elders, 8; heads of families, 66; total, 74."—*Whigham*.

before further procedure to the settlement of Mr. William MacKie, probationer, as minister of *Balmaclellan*,\* to call him before them, in order to his purging himself by oath, with respect to a *fama clamosa* raised against him, affirmed. A libel given in to the said Presbytery, since last meeting of the Synod, by Robert MacLellan of Barscobe, and others, against the said Mr. MacKie, dismissed as malicious,—the Assembly's dissatisfaction with the libellers intimated to them; and the Presbytery of Kirkcudbright appointed to proceed to Mr. MacKie's settlement, as minister of Balmaclellan, according to the rules of the Church.

Overtures re-transmitted about licensing probationers,—about processes against probationers†,—and about the *translations* and *paraphrases* of several pieces of sacred scripture.

The General Assembly do appoint the several Presbyteries of this Church, to take an account of the number of *Papists*, within their respective bounds, and of the names of *Popish Priests* who haunt among them, and where they hold their meetings, and to lay the same before the Commission in November next, or as soon as possibly they can: And the Commission is hereby empowered and enjoined to make proper representations concerning them to the Civil Government.

An appeal by the Viscount of Stormont, and other heritors of the parish of *Scone*,‡ callers of Mr. William Currie, probationer, to be their minister,—from a sentence of the Presbytery of Perth, sustaining a call, by others of the said parish, to Mr. Lauchlan Taylor, probationer, to be minister of Scone, read,—the said sentence of the Presbytery reversed, and they appointed to proceed to a new moderation of a call to one to be minister of Scone, setting aside both Mr. Currie and Mr. Taylor from being candidates.

\* "*Jus devolutum*. There voted for one candidate, 10 heritors, 6 elders, and 18 heads of families; for the other, 1 heritor, 2 elders, and 42 heads of families. Heritors and elders, 19; heads of families, 60; total, 79."—*Whigham*.

† This Overture was attacked in a pamphlet, entitled, "The unreasonableness of extending chap. 7 of the Form of Process to Probationers."

‡ "*Jus devolutum* exercised. For the one candidate there voted, 15 heritors; for the other, 15 heritors, 7 elders, and 150 heads of families.—Heritors and elders, 37; heads of families, 150; total, 187."—*Whigham*.

The sentence of the Synod of Fife, sustaining a call to Mr. Thomas Condie, probationer, to be minister of *Dairsie*,\* affirmed; and the Presbytery of Cupar appointed to proceed to his trials, and settlement therein, with all convenient dispatch, according to the rules of this church.

Appeal of the University of Glasgow, patrons of the parish of *Govan*,† from a sentence of the Presbytery of Glasgow, refusing to concur with a call to Mr. William Thom,‡ probationer, to whom the University gave their presentation to be minister of the parish of Govan, heard—the said sentence reversed; and the Presbytery appointed to proceed to Mr. Thom's settlement, as minister of Govan, according to the rules of the Church.

Reference to the Commission finally to determine in any complaint, reference, or appeal, which may be made to them, relating to the settlement of the parish of *Govan*.—[See the Commission meeting in November.]

Act reponing Mr. David Brown, late minister at *Belhelvie*, to the exercise of his office as a minister of the gospel; he having declared his resolution to go to foreign parts.

The sentence of the Synod of Merse and Teviotdale, appointing the moderation of a call at large, to one to be minister of the parish of *Bedrule*, to be at the church of Bedrule the 27th of May instant, affirmed.

A petition of the *Society for Propagating Christian Knowledge*, read; and the Assembly earnestly recommended and appointed a voluntary collection to be made at all the parish church doors within Scotland, that so an opportunity might be given to every one that inclines to contribute.

*May 18th.* The Assembly was concluded with prayer, and singing of the 133d Psalm, and pronouncing the blessing.

\* "*Jus devolutum* exercised. For the one candidate, 5 heritors, 3 elders, and 57 heads of families; for the other, 7 heritors, and 4 heads of families, and 25 neutral. Heritors and elders, 15; heads of families, 51; total, 76."—*Whigham*.

† "Vacant in 1745. The patrons offered a leet of two young men, after having indulged the parish with a hearing of four. The case was the subject afterwards of a very tedious and anxious discussion, and the parish was vacant for at least two years."—*Whigham*.

‡ A man who became famous in his day, and is still remembered—more, however, for eccentricity and sarcasm, than for prudence or piety. His patrons, the Professors of Glasgow College, afterwards became the objects of his keenest invective.

Among the cases referred to the Commission, the most remarkable was that of Mr. *Thomas Man, minister at Dunkeld*; which was entered upon on the 19th. The libel against him was taken under consideration article by article, viz.

1. "That on Sabbath the 29th of September, 1745, the day solemnized by the rebels for the victory at Preston, and on one or more other Lord's-days during the rebellion, Mr. Man omitted to pray *nominatim* for the King and the Royal family." Answered, That he always prayed *nominatim*, except on two Sabbaths; that, on the first, the Marquis of Tullibardine, and other rebels, both officers and private men, were in the church; that he was in danger of his life, having been threatened with pistols at his breast, to be shot dead, if he should, and some of the desperado rebels having planted themselves at the kirk doors for that purpose, which could not but intimidate him very much; that on the other Sabbath a body of Western and Northern highlanders had filled the town, and used the same threats as formerly; that on the first of those Sabbaths he prayed for *the King, Duke, and Princess of Wales, and all the Royal family*; and on the other, for *the King and all the Royal family*, which expressions, *Princess of Wales, and all the Royal family* determine the words not to be applicable to the pretender and his two sons, but to his Majesty King George and his family; and that on all the other Sabbaths while he was at home during the rebellion, he prayed *nominatim*, though often insulted and threatened with death. The Commission found the article relevant to infer censure, and the exculpation relevant to alleviate, but not totally to exculpate.\*

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\* During the Rebellion nothing excited the curiosity of the people more than to hear how their ministers would "pray for the King." In *Dundee* the clergy "prayed for King George, and warmly exhorted their hearers to be steadfast in their loyalty, all without molestation, though some of the highlanders were present"—perhaps not understanding one word of English. But "when illuminations were ordered, on account of the arrival of the French, the Presbyterian Ministers' windows were broken because not illuminated;—they threw stones, and even fired sharp shot into one of them; and when violent attempts were made to break in, the family escaped by a back door."—In *Edinburgh*, "a message was sent by the Chevalier to the dwelling-houses of the ministers, desiring them to continue public worship as usual. The bells were accordingly rung, but none of the ministers appeared." Nor did they resume their functions so long as the rebels kept possession of the city. "But (say the newspapers of the day) Mr. *Hog*,



2. "That he drank the healths of the pretender and his two sons, under the name of *King, Prince, and Duke*, at an entertainment given by the Marquis of Tullibardine, on the rebels getting possession of the city of Edinburgh; and that he illuminated the windows of his house on that occasion, and also on the pretender's son's birth-day." Answered, That he went to that meeting, along with the Magistrates of the place, in order to protect his family and effects, and the place, from the fury and insults of the rebels; and this was his real design, and not to concur in the solemnity; that three several messages were sent before he complied; and that it was fear influenced him to attend: And with regard to the illuminations, that he was absent; that the candles were put up without his knowledge; and that so soon as he came home, he caused them to be extinguished, and gave his servants a severe reproof for having put them up. The Commission found the article relevant to infer censure, and the answer not relevant, either to alleviate or exculpate.

3. "That he expressed his concern for the success of the rebels, in words to this effect, *If they do not succeed, Scotland will be ruined*; that he spread false news of landings of French forces and ammunition; and that he ordinarily kept Jacobite company." Answered, That the first branch was not true; that as to the second, what he might have spoke, was through misinformation, but not *malo animo*; and that the third was laid in vague and loose terms; for while a man is guilty of no overt act against the government, and lives peaceably, his character

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Morning Lecturer in the Tron Church, continues to preach as formerly without disturbance. Messrs. *Macvicar* and *Pitcairn*, in the West Kirk, likewise continue in their ordinary, pray for King George, and warmly recommend loyalty. Numbers from the city go to hear them, and there is no disturbance." The tenor of Mr. *Macvicar's* prayer, "that this young man who had come in quest of an earthly crown might soon receive a heavenly one," is generally known. The only other parishes near Edinburgh where public worship was kept up were *Corstorphine, Cramond, and Kirk-Newton*. Mr. *David Plenderleith* of *Ormiston* continued to preach, but not in the parish church; and he published "a Memorial concerning the Unnatural Rebellion," in which he says:—"In my view of things, my officiating in a place, appointed for public worship by the British King and Parliament, under the countenance and protection, by the connivance and indulgence of a Popish pretended prince then living in the King's palace, and exercising a military despotic power over this part of the land,—my officiating, in these circumstances, as minister of the church of *Ormiston*, I judged inconsistent with the principles I entertained as to the safest method of preserving the interest of the Protestant religion and British liberty."

ought not to be *tashed*\*; and if Mr. Man frequented the company of persons suspected, it was to dissuade them from entering into rebellious measures, as would appear by the proof. The Commission found the first branch of the article, relevant *per se*; the second, as laid, not relevant; and the third, not relevant *per se*, but an aggravating circumstance joined with the first.

4. "That he propagated and supported the pretender's title to the crown, saying, *It was hard a young gentleman should suffer for the faults of his ancestors*; and proposed to make up differences, by marrying one of the Princesses to the pretender's son, and giving him Hanover with her." Answered, That the expression libelled did not apply to the pretender's son, but to a gentleman's son in the neighbourhood, who might lose the estate, (though it came by his mother) through the fault of his father; and that the latter clause was not true. The Commission found the article relevant.

The relevancy being determined, the proof adduced *hinc inde* was read, and objections to witnesses decided. Next day, after long reasoning, the second article was found confessed, and also proven; which, connected with the first article, subjected Mr. Man to censure. The others were found not proven. A warm debate ensued upon the degree of censure to be inflicted. At last the question was put, *Suspend or Depose?* and it carried for the former, by a great majority. Mr. Man lies under suspension till the 1st of November, and a minister of the Presbytery was appointed to intimate the sentence to his congregation on the second Sabbath of June.†

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\* A Scottish Gallicism, from *tacher* to spot, to stain, and figuratively, to vilify.

† This is one of the very few instances of a minister of the Church seeming to favour the pretensions of the Stuarts. The great body of the clergy were not only faithful to their allegiance, but vigorously exerted themselves in support of the King's government—some of them taking arms as volunteers along with their parishioners. Even after the rebel army was in possession of Edinburgh, and had gained the battle of Prestonpans, the Synod of Glasgow and Ayr issued a spirited memorial and admonition to the people within their bounds, to be read from every pulpit. The ministers who lived in the disaffected parts of the country were exposed to severe sufferings from both sides. The complaint of the minister of Kilmalie, to the Assembly, will be seen at p. 90; and it was probably from him that the following letter came, which appeared in the newspapers of the day, dated June 26, 1746:—"As the most of this parish is burnt to ashes, and all the cattle belonging to the rebels carried off by his Majesty's forces, there is no such thing

On a complaint by Mr. Alexander Maclaggan, minister of Little-Dunkeld, against a sentence of the Commission in November last, by which he was excluded from being a judge in the above cause, because he was a witness against Mr. Man, the Assembly found, May 18, That a person's having been examined as a witness in any part of a process, does not disqualify him from being a judge.\*

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#### COMMISSION MEETING IN NOVEMBER.

THE only business of importance was the settlement of *Govan*. Notwithstanding the appointment of last Assembly, the Presbytery of Glasgow, by a resolution they adopted on the 2d September, delayed entering on Mr. Thom's trials, and continued a committee of their own number to deal with the parish, if they thought they had any prospect of success. Against this resolution an appeal was brought to the Commission, who, on Nov. 11th, appointed the Moderator of the Synod of Glasgow and Ayr to call a Synod to meet at Glasgow, on the third Tuesday of December; and when so called, the Synod, *or any eleven ministers of them who should be willing*, immediately to take Mr. Thom on trials, and proceed to his settlement, according to the rules of the Church. [He was settled accordingly.]

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*as money or pennyworth to be got in this desolate place. I beg, therefore, you will advise me what steps I shall take to recover my stipends. My family is now much increased, by the wives and infants of those in the rebellion in my parish crowding for a mouthful of bread to keep them from starving; which no good christian can refuse, notwithstanding the villany of their husbands and fathers to deprive us of our religion, liberty, and bread."*

\* It was alleged, however, that Mr. Maclaggan was also the first informer and spreader of the *fama* against Mr. Man, and the framer of the libel against him; but the Assembly "judged these words to be inserted *unnecessarily*."

1748.

THE General Assembly met on the 12th of May, and chose Mr. George Wishart, one of the ministers of the Tron Church, Edinburgh, Moderator. Mr. Robert Hamilton, minister of Lady Yester's, acted as Principal Clerk in room of Mr. Wishart. The Earl of Leven was High Commissioner.

A representation was laid before the Assembly by the trustees of the fund for the widows and orphans of ministers, showing, That a great many old ministers chose the higher classes, which was very disadvantageous to the fund; that the number of benefices in the Church and Universities, and consequently the annual produce for support of the fund, was considerably less, and the number of widows and families to be provided for would probably be considerably greater than was supposed at framing the scheme, the former being only 1013 instead of 1039, and the latter 364 instead of 321; that by these disadvantages the stock, against the 1771, would probably become stationary, and diminish every year after, as it would then be only £47,633, 0s. 8½d., and would want £10,000 of what it should at that time be to make it rise to £63,860, the intended capital, and which will be absolutely necessary when the greatest burden comes upon the fund; and that such deficiency would in the event either deprive contributors' children of their just provisions, or be an unequal burden on future entrants. It is therefore proposed to apply to Parliament for having it enacted, 1. That when a contributor dies before having paid into the fund in whole a sum equal to three years of the annuity tax, that such deficiency be made good to the fund, by retaining one half of his widow's annuity till the deficiency be extinguished, or by deducing it out of his children's stock.—2. That the following sums be lent at Whitsunday yearly, for increasing the stock, even preferably to the payment of the provisions for widows and children, viz., preceding 1755, £3000; after 1754 till 1759, £2000; after 1758 till 1765, £1000; after 1764 till 1780, £500; and after 1779 till the capital be made up, £200.—3. That after the capital is made up, the surplus be divided among



the widows and children entitled to annuities or stock that year, in proportion to the taxes on which they claim (the widows had no share of it by the first law). But that the Assembly, or the trustees, be empowered, if it shall be thought necessary, to apply such surplus for increasing the capital from £35,000 to £50,000, over and above the £30 to be lent to each minister and professor.—4. That general letters of horning be issued from the Court of Session, at the collector's instance, against contributors, for payment of what shall be due by them to the fund.—5. That every incumbent on the continent choose the rate at which he is to be taxed, on or before the 15th of January that shall first happen after he has had right to one half-year's benefice or salary, or has held his office for four calendar months.—And, 6. That the four annual meetings of the trustees be held in their hall, instead of the Old Church isle.

These amendments are approved of by the Assembly, and application is to be made to Parliament accordingly.—[An Act was obtained soon after “for explaining and amending the Act 17mo. Geo. II.” (see p. 45) and it received the Royal Assent on the 26th May, 1749.]

By instructions from the Synods of Glasgow and Ayr, and Galloway, an overture was made to apply to the Legislature, *for an augmentation of stipend* to the ministers of the Church of Scotland. This was transmitted to the Assembly by the proper committee, with an opinion, that it should be committed, and an overture brought in upon it. After long reasoning, the question was put, *Appoint a committee, as proposed*; or, *Not?* and it carried, *Not*. So the proposal was rejected.\*

The overture transmitted to Presbyteries, by the preceding Assembly, was, on the 18th, turned into an Act, after some amendments had been made on it. It enacts, That, in calling ministers, no person shall be admitted to vote, who shall have either twice heard sermon, or attended divine worship, performed by any minister or preacher professing himself to be of the *Episcopal communion*, in any meeting or congregation not allowed by the laws, or where his Majesty King George and the Royal Family

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\* I find from a pamphlet of the day, that it was thrown out by the casting vote of the Moderator. All the elders voted against it except seven, and many ministers voted *Non liquet*.

were not prayed for in express words, within twelve calendar months immediately preceding the vacancy, or who, within that time, shall have received the sacrament of the Lord's Supper dispensed by such ministers, or allowed their children to be baptized by any of them. That it shall be competent to prove the said facts by the judicial declaration of the person claiming a vote and objected to, or by any other mean of proof known, and competent in law; and if the person objected to refuse to give such declaration, when required, that he be held as confessed.—That such declaration shall not be admitted upon its having reference in general to the above exceptions, but that it contain every one of them at length. That no proxy be sustained, unless there be annexed to the commission of proxy a subscribed declaration in the above terms; and that notwithstanding such declaration, it be competent to object to the person claiming a vote by proxy, as falling under these exceptions, and to bring proof of the objection.

An overture of the Presbytery of Edinburgh, and Synod of Lothian and Tweeddale, is transmitted to Presbyteries, in order to have their opinion of it against next Assembly, and the observation of it is, in the meantime, recommended to all the ministers of the Church, *viz.* “The General Assembly, taking to their serious consideration the great ignorance of many among us, concerning the principles of our *glorious reformation* from Popery, and of our present happy Establishment since the *Revolution*;—that insensibility of the blessings we enjoy by these great events which so sadly prevails;—that woful indifference about the purity of religion, and disaffection to our happy constitution, and to the person and government of our most gracious sovereign King George, into which too many are sunk, and the unhappy fruits of which we have so lately felt; and, in fine, that ungrateful forgetfulness of the signal mercies of God to these lands, into which even the better sort among us are too ready to fall, do therefore earnestly beseech and obtest all the ministers of this Church to be diligent in instructing the people committed to their care, in those principles of pure Christianity that are particularly opposite to the errors and corruptions of Popery and in the grounds and reasons of the Reformation, and the principles on which the late glorious Revolution and

our present happy Establishment are founded ; and to stir up all to a grateful sense and suitable improvement of the inestimable blessings we enjoy by the free exercise of the pure religion of Jesus, and the securities of our liberties and properties under a legal government : and for these purposes, and perpetuating the memory of the great things God has done for us in these lands, the General Assembly do particularly appoint all the ministers of this Church to preach expressly, and on purpose, upon the subjects above-mentioned, or some of them, on four Lord's-days every year, *viz.*, the first Lord's-day of the months of August, November, February, and May, with proper exhortations to their people, and suitable prayers and praises to our gracious God, in the name of the only Mediator between God and man, our Lord Jesus Christ ; and if any circumstance shall occur to render it particularly inconvenient to any minister to preach on those subjects upon any one of those Lord's-days mentioned, he is hereby enjoined to be mindful of it the first Lord's-day after it that he conveniently can."\*

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\* It was soon found that from various causes, this recommendation would by many be disregarded. Accordingly, in the month of November, there appeared a pamphlet with the title, "The Overture concerning preaching on the principles of the *Reformation* and *Revolution* considered." It consists of a laboured defence of the Overture, in answer to those who were already proposing to withdraw it. "This overture," it is said, "had its rise from a number of well-disposed persons in Edinburgh, who had set themselves to revive and keep up that spirit of zeal for our religious and civil liberties, and our happy constitution, the decay of which had been of late so sadly felt ; and to have stated meetings for this purpose on certain days of the year, made remarkable either by the event of the glorious Revolution, or some signal appearances of providence in maintaining a revolution-interest. They judged it would contribute to give their joy and thankfulness on these occasions a proper turn, and might, by the blessing of God, have very happy effects, if, on some part of those days of rejoicing, a sermon was preached, and public prayers and praises offered up to our gracious God, suitable to the occasion. This being proposed to ministers, and several of them having had it under consideration, it occurred, that fixing assemblies for religious exercises to any stated anniversary week-days, might be liable to exception from some well-disposed people, and might afford occasion of railery to the enemies of our Church ; and that, therefore, it would be more proper to have sermons and exercises of devotion, to the purpose proposed, on certain returning Lord's-days, in the several churches, as of more universal edification, than if performed only in one church of the city, on a week-day.—It occurred likewise, that the doing this in our metropolis, though indeed a good deal, was far short of what was necessary ; that as the disease was too general among us, the remedy should be as extensive ; and that as the subjects of the sermons proposed were of equal importance to all corners of the Church, they should be universal and

The *translations* and *paraphrases* of passages of scripture, with amendments offered, are remitted to the committee named by the preceding Assemblies; and it is recommended to Presbyteries and members to take the affair under consideration.

A reference was made to the Assembly by the Presbytery of Glasgow, in relation to Mr George Adam, late minister at *Cathcart*. This gentleman having fallen into the sin of fornication with his own servant, judicially confessed his guilt. He was thereupon deposed, and underwent a course of discipline. On that occasion, and ever after, he gave evident signs of a sincere repentance. This, joined with the singularly good character he had maintained in every period of his life till that unhappy event, and his particular usefulness in his ministerial office, so endeared him to his parish, that the whole elders applied to the Presbytery for reponing him to the ministry; and, this done, the patron, the whole heritors, elders and other parishioners, applied for having him resettled in his church. The Assembly were of opinion, "that this case, in its so peculiarly favourable circumstances, deserved to be distinguished from others; and therefore, without derogating from the force of the Acts by which Presbyteries are bound up from reponing ministers deposed for immoralities to their former charge, but expressly confirming them, they authorized the Presbytery to settle him again in the parish of *Cathcart*,\* (if proper application should be made to them,) proceeding in the same form as if he had not been

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fixed." In answer to the objection that this would be *preaching politics*, the writer says:—"Is it *preaching politics*, in any culpable sense, to show people that we are not guilty of a gross piece of *injustice* and *damnable rebellion*, in submitting to the present government? Is it *preaching politics*, to confute the corruptions and abominations of *Popery*, and establish people in a just abhorrence of them, and a love and adherence to the pure doctrines and institutions of the Lord Jesus? Is it *preaching politics*, to excite and promote in our people a thankful sense of the *signal* deliverances God has wrought for us in these lands, and of the great blessings we enjoy by his good providence?" He concludes with the observation, "That the laying aside this overture, after our Church has gone so far as to *recommend* the observation of it, would be a matter of great offence to our Protestant brethren in England, both in the Church, and among the Dissenters, and be matter of triumph to our common adversaries."—The result will be seen under next year.

\* Mr. Adam was accordingly re-placed minister of Cathcart, on the 17th August. His case is supposed to have suggested to Lockhart the groundwork of "Some Remarkable Passages in the Life of Mr. Adam Blair."



settled in that church before; provided always, that no minister deposed for immoralities shall be capable of being restored to his former charge, in any circumstances whatsoever, without the special authority of the General Assembly appointing it."

Resolution, That by the minute, relating to the election of the Moderator, and the power given him of deputing a *Clerk*, with the approbation of the Assembly, is not meant that Mr. Wishart had, or that he, or any future Clerk, is to be understood to have a power of deputing a Clerk to act for him, without the previous allowance of the Assembly, and their approbation of the person deputed.

The sentence of the Synod of Galloway, affirming a judgment of the Presbytery of Kirkendbright, sustaining a call, by heritors and elders of the parish of *Tongland*, to Mr. Alexander Brown, probationer, to be minister of that parish affirmed, and the said Presbytery appointed to proceed to his trials and settlement with all convenient dispatch, according to the rules of this Church.

Resolution to be observed as a rule in time coming, That when the rolls are called over in order to voting, no member happening to be omitted shall have liberty to vote unless he stand up and claim his *vote* in his place, or while the Commissioners' names from his Presbytery or Synod are calling over; and an appointment, that when the Clerk wants to be informed how a vote is given, the person who gave it shall be again called upon, and he is to stand and speak up his vote.

A representation of the Synod of Angus and Mearns, proceeding upon a petition of the Presbytery of Meigle, craving that the Procurator for the Church may be appointed to appear in support of the privileges of the said Church judicatories, in a case now depending before them, concerning the schoolmaster of Aylth, *who is libelled for disloyalty*, and the cause advocated to the Court of Session, is remitted to the committee on the public accompts.

Overtures about processes against probationers, and about licensing probationers, re-transmitted.

The sentence of the Synod of Fife, affirming a judgment of the Presbytery of Dunfermline, sustaining a call to Mr. Thomas Fernie, one of the ministers of Dumfermline, to be one of the ministers of *Culross*, and rejecting a presentation by Mr. Charles Cochran, claiming to be

patron of that parish, to Mr. William Trotter, probationer, to be minister thereof, affirmed, and the Presbytery appointed to proceed in a process for Mr. Fernie's transportation and settlement, as one of the ministers of the town and parish of Culross, with all convenient speed, according to the rules of this Church.\*

Order for summoning Mr. Charles Cochran of Culross to appear at the bar of the Assembly, to-morrow at 11 o'clock forenoon, to answer for his conduct in emitting expressions, containing an open and gross accusation against Mr. Hardy,† minister of Culross, and for the *indignity done to his Majesty's High Commissioner*, and to the Assembly by emitting these expressions in their presence.

Mr. Charles Cochran compeared next day, and acknowledged that he had not sufficient proof for saying yesterday what he had spoke out relating to Mr. Hardy, and, being rebuked and admonished from the Chair, the affair was dismissed.

The sentence of the Synod of Glasgow and Ayr, refusing to appoint the Presbytery of Paisley to proceed to the settlement of Mr. James Campbell, probationer, as minister of the *Abbey Parish of Paisley*, affirmed, and the said Presbytery directed to appoint the moderation of a call at large for supplying the said vacancy.

Report of the committee appointed to consider the case relating to Mr. James Campbell, probationer, candidate for the *Abbey Parish of Paisley* brought in, and the Assembly considering that certain things had been thrown out in the course of the process, and pleading of parties, tending to raise suspicions of Mr. Campbell's loyalty, declared from all that was laid before them, there did not appear just foundation for these suspicions, and that it is the Assembly's opinion, no regard be had to such suspicions, unless upon a previous trial and inquiry, there be found ground for them.

An overture transmitted from the committee for over-

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\* A full statement of this interesting case will be found under the following year.

† He was the father of Dr. Hardy, the distinguished Professor of Church History in the University of Edinburgh. Sir Henry Moncrieff describes him as a faithful and conscientious minister, who (like his son) died in the prime of life universally respected and regretted. Dr. Erskine succeeded him in 1753.—*Moncrieff's Life of Erskine*, p. 187.

tures, about allowing *viaticums* out of the public money, read, and the Assembly ordered that the £6 sterling formerly allowed for a viaticum for one Commissioner yearly from each of the Presbyteries of Lorn, Mull, Abertarph, Tongue, Kirkwall, Cairston and North Isles, be divided betwixt them and the Presbyteries of Gairloch, Dornoch and Caithness, and that the viaticum in time coming to one Commissioner from each of all these Presbyteries be restricted to £4 sterling.

The sentence of the Synod of Lothian, affirming a judgment of the Presbytery of Dunbar, sustaining a call to Mr. David Spence, probationer, to be minister of *Cockburnspath* affirmed; and the said Presbytery appointed to proceed to the trials and settlement of the said Mr. David Spence, as minister of the parish of Cockburnspath with all convenient speed, according to the rules of this Church.

A petition of certain *Highlanders* residing in and resorting to the city of Edinburgh and suburbs, craving, that the Assembly would direct the managers of the royal bounty, or recommend to the Society for propagating Christian Knowledge, to grant an allowance of £10 for an additional encouragement to what they contribute themselves for a person to preach, and otherwise instruct them in their own language, remitted to the Presbytery of Edinburgh, to make proper inquiry into the necessity of employing a preacher, in, or about the city, having the Irish language.

Protestation admitted at the instance of the Synod of Sutherland and Caithness, and Presbytery of Tongue, against Mr. John Skeldoch, minister at *Farr*, for not insisting in his appeal from a sentence of the said Synod, appointing the foresaid Presbytery to give him a libel\* *for holding in tack great and extensive possessions in his parish*, and for sundry acts of alleged *oppression* of the tenants of the said possessions, as also for his prevarications and other miscarriages mentioned in the said sentence, and the said appeal declared to be deserted and fallen from.

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\* The process did not lead to his deposition, for two years after we find him applying to the Assembly for "an Itinerant Preacher, Schoolmaster and Catechist, to the parish of Farr."

May 23. The Assembly was concluded with prayer, and singing a part of the 89th Psalm from the 15th to the 19th verse, and pronouncing the blessing.

The Commission took up an appeal by Mr. Gilbert Man, minister at *Moneidie*, against a sentence of deposition pronounced against him by the Synod of Perth and Stirling. The libel consisted of four articles, viz. 1. Putting away his wife ; 2. Drunkenness ; 3. Profane cursing and swearing, and obscene language ; and 4. Immodest carriage with one or more young women. Of these the first and second were by the Commission found irrelevant, as laid ; and the fourth having been found relevant, but not proven, by the Synod, was not appealed from. The third article was found relevant as laid, by a very narrow majority ; and one act of swearing, and a single instance of immodest language several years ago, were found proven. On this the question was put, Whether this article, as it stood in the proof, was a sufficient ground for deposition ? and it carried in the negative. After reasoning on the degree of censure to be inflicted, the court, without a vote, agreed to suspend Mr. Man till the meeting of the Commission in November, reserving power to the Presbytery of Dunkeld to inquire further into his conduct, as they should see cause.

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## 1749.

THE General Assembly met on the 11th of May, and chose Mr. Patrick Cuming, one of the ministers of Edinburgh, Moderator. The Earl of Leven was High Commissioner.

The following overture was transmitted to the Assembly, May 15 :—" Edinburgh, May 13, 1749. The committee of overtures had laid before them, instructions from five Synods and twenty-five Presbyteries, to the Commissioners from their several bounds, to insist at this Assembly for the necessity of *an Augmentation of Stipends* in Scotland, and for the Assembly's applying to the Legislature for that purpose ; together with an overture from a sixth Synod, that the Assembly should give that attention



to this affair, that a matter of so great importance and delicacy challenges, and if any probable measure can be fallen upon that may answer this end, that the greatest unanimity should be studied in following it : which being considered by the committee, they did unanimously agree, That an augmentation of the generality of ministers' stipends in this Church was highly reasonable and necessary ; and by a very great majority do give it as their opinion, That the Assembly should take this matter under consideration at their diet on Monday next, and should resolve on an humble application to the King and Parliament for the purpose above mentioned."

The Assembly delayed the consideration of this proposal till the 17th, when there was long reasoning on the subject. Some argued for a general, others for a particular augmentation ; some for a speedy application to Parliament, others for delaying it till an inquiry should be made into the state of the tithes and of the different parishes in Scotland ; and some were against the scheme in any shape. We give the two principal speeches delivered, one on each side of the question.

Mr. *William Steel*, minister of Sorn, in Ayrshire, spoke as follows, in support of the motion :—

MODERATOR,—The ministers of the gospel in this Church are accounted necessary to the religious concerns of the people under their care ; they are necessary to the temporal and everlasting interests of men ; they are a necessary security to the liberties, strength and glory of our civil constitution : let such then as regard them in these views, consider whether or not the discharge of the ministerial duties ought so to employ our thoughts, time and pains, that we cannot provide subsistence for ourselves and our families by any secular business. These being admitted, it may be inquired, Who ought to maintain and support us ? Previous to any legal establishment in our favour, those persons who called a minister to serve them, obliged themselves to maintain and support him. But, now that the Legislature have taken this care upon themselves, to them only we must make our representations ; from them we must look for assistance in this matter. It comes now to the question, Whether or not the stipend presently settled by law in our favour, be such as supersedes the necessity of applying to our Most Gracious Sovereign, and the high court of Parliament, for an augmentation ?

Thus I am brought by a very short and straight line, to speak of the present stipend in Scotland. The latest standing law settling the same, was enacted about 120 years ago, in the reign of King Charles I. appointing eight chalders of victual, or 800 merks as the minimum of any stipend in Scotland; leaving it to the Lords for Plantation of Kirks and Valuation of Teinds, to grant decreets of modifications and locality, without restricting their Lordships by a maximum. The Lords of Session, who were appointed for this purpose, have been in use ever since that time to judge and determine in this matter; and have generally of late years made the minimum their rule, even in cases where there was sufficient fund for going beyond it; which we cannot apprehend to have been the sense of the law, fixing the minimum, as their Lordships were not restricted by it. But such is the present state of the stipends in Scotland, notwithstanding the augmentations that have been granted, that, at a medium, it scarcely exceeds £52 sterling, and in many places extremely ill paid. Can this, as living goes at present, be deemed a suitable support for a minister's family? can this answer the necessary expense of maintenance, clothing, and education to his family as a gentleman; and at the same time defray his charge as a minister, in buying books, attending judicatures, and bestowing charity? If the settlement made in our favour about 120 years ago, was only a reasonable allowance for these purposes then, it must fall vastly short of a reasonable stipend now, when the value of money is so remarkably fallen, and the price of vivres and other necessaries so universally increased. If the stipend at a medium falls so far below the necessary expense of our character, and of the times we live in, what must be the case, when we take off 340 livings above 70, 80, 90, and £100; what must be the case with the remaining 600 ministers, whose benefices do not exceed, some 60, some 50, some 40, some £30 sterling, the pay of a landwaiter, or the lowest excise officer? Can these, any of these, be reckoned a suitable provision for the ministers of the gospel? What a mean and comfortless life must they lead! how languid and disheartened must they be in the exercise of their ministry! Surely there is no minister, no elder, nor any well-wisher to the religion and servants of Christ, so void of bowels as not

to feel the hardships, and commiserate the wants, of such indigent brethren. It were very becoming, that such as have enough, and to spare, were stretching out the brotherly hand, and distributing to their necessities. Ought we not to *love as brethren*; to *be pitiful*, to *be courteous*; *having compassion one of another*; *bearing one another's burdens*; *looking every man not upon his own things, but every man also on the things of others*; thus fulfilling not only the law of our nature, but also *fulfilling the law of Christ*, our common master?

For my own part I have done what I could to promote this just and necessary design; nor can I lessen my concern for its success, while I retain my bowels as a man, my principles as a minister, my loyalty as a subject to the best of Sovereigns, and my zealous attachment to the noblest constitution.

Having spoke to the reasonableness and necessity of applying to the Legislature for an augmentation, I proceed now, Sir, to consider some objections which may be urged against our application.

1. "We will not succeed till we reconcile the landed interest by private methods." How is it to be expected, that we shall gain them, when we reflect, that some of them are known Jacobites? Is it likely those will be reconciled by private hands to support the ministers of the Church of Scotland, the avowed enemies of Jacobitism and disaffection? Others, I am sorry to say it, have not all the regard to religion and its teachers we could wish. What countenance, what assistance, can we expect from them in this matter? I observe it indeed with pleasure, that the great part of the quality and gentlemen in Scotland are steady friends to our happy establishment in Church and State; yet these are likeliest to be prevailed on, when the Assembly have found an application to Parliament for an augmentation reasonable and necessary.

2. It is objected, "That the ministry will not disoblige the landed interest to relieve the clergy." Nothing could have drawn from me such an indecent objection, but the use that has been made of it against us without doors. I look upon it, Sir, as a high imputation on the Parliament of Great Britain, to suppose or imagine, that they will be misled by partial views or selfish motives, without regarding the merits of the cause that comes before them. Our

hopes of success are founded in the righteousness of our cause, and the known equity and righteousness of that supreme court ; as also in the just impressions which his Majesty, the Prince of Wales, and the Duke of Cumberland, are pleased to entertain of our usefulness and importance. Nay, when the Legislature regards this matter, even in a political light, they will easily see, that not only the sacred interests of religion, virtue and learning, must suffer, if the ministers of the gospel are not suitably supported ; but also, that the strength and glory of the Protestant constitution must sink in proportion as the ministers of this Church are reduced to poverty and contempt.

3. It is objected, “ Though we might succeed, yet there is no plan, no scheme.” Sir, there is a plan ready to be laid before any committee that shall be appointed to consider this matter : a plan very short and simple, as the whole of this question is ; in substance thus : “ Whereas the stipend in Scotland is insufficient for the comfortable support of the ministers, and that there are funds sufficient for their relief, the Legislature would be pleased to raise the minimum, so as to bear some tolerable proportion to the remarkable alterations in the necessary expense of life since the minimum was last fixed.”

Though I am now languishing out the remains of a frail and sickly life, having little expectation of reaping any benefit by the augmentation to myself, or my family ; yet it affords me an unspeakable satisfaction, to think, that, when I am gone, the ministers of the Church of Scotland shall be decently supported, and remain a lasting security to the incomparable interests of religion, liberty, and learning.

In opposition to the proposal the *Earl of Marchmont*\* spoke thus :—

MODERATOR,—As you have called upon me to give my

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\* This was Hugh, the third and last Earl of Marchmont, grandson of Sir Patrick Hume, the founder of the family, and nephew of Lady Grizel Baillie, immortalised by her filial devotedness in the days of persecution. Under the title of *Lord Polwarth* he had attained some distinction as a Parliamentary speaker ; and when he succeeded to the Earldom in 1740, having to retire from the House of Commons, and not being elected a representative Peer, he was content to transfer his peculiar eloquence to the theatre of the General Assembly, as Elder from the Presbytery of Dunse. He was a friend and one of the executors of Pope the poet, and also an intimate acquaintance of Bolingbroke and others of that school—so that his qualifications for the Eldership must have been of rather a questionable character.



opinion on this affair now before you, which is of high importance to this Church, I shall endeavour to give it you as clearly and distinctly as I am able ; hoping that all the facts that relate to it, have been already stated, and laid before you.

I came to this house this morning entirely unprepared, without the least knowledge of the matter, further than what I learned from report. Since I came here I have heard a great many learned arguments used on both sides, to which I have given the closest attention, and have from thence formed a conclusion, which I shall state to you directly.

And, in the first place, I must observe, that this is not to be considered as a point of doctrine, in which zeal is always commendable ; but as a worldly matter, and therefore to be treated with the same freedom as is usual in affairs of that nature. Having said so much, I solemnly declare, that I am of opinion the small livings in Scotland should be augmented. As I am a member of the Church of Scotland, I have the greatest regard for her interests, and shall ever endeavour to promote them ; I am therefore for giving every clergyman a competency sufficient for his support as a minister. As for your *maximums* or your *minimums*, I know nothing of these abstruse terms ; I have employed my time in more agreeable studies, and I hope also, at least to me, more useful ones : I say therefore, that I am for the ministers of the Church of Scotland having a competency provided for them, and no more.

No one will say but the small livings in Scotland ought to be augmented ; but I am sorry to say it, that I think those gentlemen who have been the contrivers of this scheme now under your consideration, have gone to work in a very wrong way, if ever they intended it should succeed. They come here with a crude and undigested proposal, That the Assembly should resolve, that it is reasonable and necessary that the generality of the livings in Scotland should be augmented, and therefore immediate application should be made to Parliament for an augmentation of these livings. On what do they found such an application ? Where is their evidence of its necessity ? What are these livings that require it ? The generality of the livings in Scotland, say they. I don't understand these terms, Sir. *Many* and *generality*, these are relative terms,

which do not convey a clear and distinct idea of the thing. No such terms as these must be used in an application to Parliament, Sir: they must be plain; and every living in Scotland that needs such augmentation, must be condescended on with precision.

But further, Sir, I deny that there are many livings in Scotland which need such augmentation. Some indeed there may be; but they are only a few: and if these are not augmented, at least to what you call the minimum fixed by Act of Parliament, it is entirely owing to the negligence of the incumbents, in not making proper application to the Court of Session, who are empowered to take cognizance of these matters, and who can, and ever have given even more than the law allows, as a very learned judge\* near me has already declared. And here I cannot but observe, that it is with the greatest surprise I have heard the conduct of that court dragged into this debate, and arraigned for no less a crime than that of having not acted according to law, in seldom giving an augmentation as high as the minimum, and never above it. This the same learned judge has already disproved; and I must own, that I think it ill becomes these gentlemen to treat such an honourable court, to whom they owe great obligations, with such an undecent freedom.

From what then does the necessity of this application appear? O, says one gentleman, the times, the expense of living is altered. Says another, It is necessary we should have finer clothes, make a grander appearance, in order to make us respected, and enforce our doctrine. I never knew before, that shew, or a gaudy dress, was a necessary part of a minister's character. For my part, I should look upon any of you who appeared in such dress, in the same light as I would, if I saw you in a procession wearing a philibeg, or Harlequin's coat; that is, I would consider you as madmen. I ever imagined, that the main support of the Church of Scotland, had been her purity, and contempt of the pomp and riches so much complained of in the Church of Rome. I am sure it has been her purity and poverty that has hitherto preserved her. A member† near me very well observed, that although

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\* The Lord President (Dundas of Arniston)—the *first* President of that name.

† Mr. Thomas Turnbull of Borthwick.

the Church of Rome endeavoured to draw as great riches, and procure as great grandeur to the clergy as any church in the world, yet that even they thought it proper, for the preservation of the esteem of the laity, to have a begging order of men, remarkable for their piety and poverty, and who have done more for the support of that corrupt church than all their other clergy besides. Gentlemen who talk of the luxurious and loose life of these mendicants, seem to know little of the world, and to have never conversed on that subject with any other that knew more of it than themselves. Were one of these gentlemen to tell a Popish gentleman or a Popish priest so, he would be laughed at; and he would as soon convince either of these, that the mendicants were not good, pious, and religious men, by such arguments as have now been used to prove it, as he would convince a Jew of any point in his religion, from a text of the New Testament.

From whom, pray, have the Roman Catholics had all their saints and martyrs? Why, from that very begging order.

But to proceed to the affair in hand: Another member\* has said very justly, that before we can form any judgment on that point, we must know where these small livings lie; as I believe they generally are situated in parts of the country where no alteration has happened as to the expense of living, (another argument used for the necessity of the application), and where money is double the value of what it is here. A zeal in spiritual matters has been ever laudable; but I am sorry to observe many of the clergy of Scotland, formerly remarkable for moderation, now giving into a wild zeal and desire after the means of luxury and extravagance. I wish that all clergymen had a competency sufficient to enable them to provide for their sons at the university, and their other children in a proper manner; but in judging of the condition of the children, we must consider the conduct of the parents, and not think that the children of every man that dies poor, are immediately to be relieved at the public expense. No; we must consider the revenue and income of the father; and find, whether he had not the ability, if a good manager, of providing for his children. And give me

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\* Mr. James Lindsay, at Dumbarrie, formerly of Lauder.

leave to say it, they have not all been good managers who have died of late. I myself knew a clergyman in Scotland, who had one of the best livings in it; how he spent his income, I shall not say, but so it was that he died as poor as a rat; and if he had left any family, they would probably have been of the mendicant order. But that was not all: he borrowed large sums of money from other people, and even that went the same way with his own; the gentleman died, they were never paid, and some of these may be mendicants now.

I shall now consider the manner in which this project seems to have been conducted.

One would have readily thought, that the proper way to have proceeded was, to have gained the consent and interest of the landholders of Scotland, before such a proposal had been brought into any church-judicature. But what a contrary method has been pursued? These gentlemen have never been applied to, though it is from them that the augmentation proposed is to be taken. And what reason have we for this? Why, these gentlemen are traduced in the most scandalous and unbecoming manner: they are classed into odious divisions, of Jacobites, people that have no regard for religion, or Atheists; and some, a few, that are well-affected to the government. This treatment, as the learned judge near me observed, is strange and surprising; and I cannot but say that such epithets so applied struck me with astonishment. What! are the majority of the landed interest in Scotland Jacobites? No; I aver they are the smallest part either in interest or number. And even these enemies of the constitution are honoured with the preference of its true friends, who are ranked in the last class, as the most contemptible. The second is said to be made up of Atheists, or persons who have no regard to religion. What! has the preaching of the gospel lost its power? Are the clergy no longer able to withstand the objections of infidels? I am sorry such a circumstance should be talked of by any clergyman of the Church of Scotland, especially in this Venerable Assembly. It truly raises my indignation, to hear so frightful a description of the gentlemen in that particular part of the country from whence I have drawn the one half of my blood. No part, surely, can boast of greater champions, in former times, for the Church



of Scotland: if the case is otherwise now, surely it is little to the honour of their clergy; and shows, that they must either be very negligent of their duty, or that the grace of God has forsaken their ministrations. Shame, that ever such a thing should be heard of!

What way then are you to proceed in this application, after throwing the landed interest so contemptuously out of the question? Why, without the least evidence of any one fact founded on, or without any certainty of the manner how this money is to be raised, you enter into a resolution, like the Pope and the Council of Trent, who set themselves up against the laity, finding, That it is reasonable and necessary that your own stipends should be augmented; and with this resolution, as a *res judicata*, you go to Parliament, and very modestly tell them, "We have found it reasonable and necessary that our stipends should be augmented; we want money, more money; you must find it; and we won't tell you how or where:" and thus you sist yourselves as parties at the bar of the House of Commons against the whole landed interest of Scotland. Where is the hope of success to an application thus begun, and thus conducted?

But one was pleased to argue, What need we wait for making interest with the landed gentlemen? If that be absolutely necessary to give us hopes of success, we shall never have hopes of succeeding; and therefore we should push it on directly. Very strange this, I must confess, to hear of an application to be made without the least hopes of succeeding in it. Indeed, when I had the honour to sit in another place, I have heard gentlemen make a motion, without having any hopes of success. But then it was from private views, in order to throw dirt on the ministry: and this is a design which I am sure the clergy of Scotland are very far from having in this affair.

But to go on: This application is to be made with the utmost precipitation; no funds pointed out whence the money is to be raised, nor any evidence given of the necessity for doing so. Ay, but the Parliament will grant whatever we ask, so great is our merit. But I am afraid, if we go on thus, we shall have the mortification to meet with a very great disappointment. It will not do at the bar of the House of Commons, barely to tell, "Why, there are the tithes in the King's hands, and tithes in the laity's

hands ; such a one I don't know who, that has some concern in the teinds, told us, that there would be sufficient for all that we desired ; but if there be not, you the Parliament must see to that ; we have found the thing reasonable and necessary for us, so do it as you think proper, only it must be done." No, no ; gentlemen who talk thus, seem to know nothing of the usage of Parliament, and of the forms observed in matters of much less importance. For instance, in an affair of the most trivial nature that comes before the house, that is, in the case of a road-bill, if a gentleman should tell the house that such a road must be mended, for an extreme good reason, because such a man broke his neck there ; do you think this would be sufficient to procure a bill to pass for amending it ? No, by no means, Sir ; he would be obliged to have the concurrence of the neighbouring landholders to his petition, and to be able to prove by good evidence, that that road could be mended in no other way, that no fund was subsisting for so doing, and therefore the aid of Parliament was necessary ; so in like manner, you gentlemen must be able, not only to condescend, as I have said already, on the particular livings that need to be augmented, but also to show, that the law subsisting is so defective, that that end cannot be obtained by any other means ; or else you must make it appear that the Court of Session have failed in point of duty, by not executing the law ; and so you appear as accusers of that honourable court at the bar of the house. For that court is no supreme court, as some yesterday\* erroneously called it, unless there be a comparative degree above the superlative. It is indeed a superior court in this part of the United Kingdom ; but the Parliament of Great Britain is the sole supreme court of this nation.

But give me leave, Sir, to advise you to consider a little better before you involve yourselves in an affair, from which you may not be able easily to extricate yourselves. Consider that you have already made yourselves parties in this application against the whole landed interest of Scotland ; and thus would you do the like with the Court of Session ? Don't be too self-sufficient : one of

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\* The reference is to the debate on the case of Dunse, of which an account follows.

them, I am afraid will prove hard enough for you to deal with in this matter without the other. The opposition of the landed interest of Scotland will have more weight in Parliament than you imagine; more especially when it appears there, that the consent and concurrence of that interest, though principally concerned, has never once been asked, but on the contrary, contemned and despised, as no ways requisite for the success of this application. This calls to my mind another part of parliamentary procedure which the friends of this scheme seem not in the least aware of; and that is, the decency and respect which the house ever requires to be shown to those persons whose interest is concerned in opposing any such application. I have known an instance of this in a case of a far less public nature than that now under your consideration. A gentleman presented a petition, complaining of an undue election, and consequently tending to deprive another gentleman of his seat in Parliament. What way, think you, did the house proceed in this case? Why, they first inquired, if the petitioner had intimated this complaint to the gentleman concerned, so as he might have sufficient time to prepare his defence? and it appearing, that such intimation had been made only four or five days before exhibiting the complaint, so great regard did the house show to this piece of justice and respect due to the sitting member, that they returned the petition till the petitioner should meet and converse with him, and endeavour to adjust the matter amicably. And, believe me, the petitioner had good reason to be satisfied with this order, and to be thankful that his petition was not thrown over the bar. This case alone is sufficient to point out to all who hear me, what may be the consequences of that disregard shown to the landed interest in this affair, when known above.

But to proceed: Don't you think, that the Scots members of Parliament themselves, who are all landed men, and consequently are to be saddled with this augmentation as well as others; don't you think, I say, that they, who are to be your judges, will have as much regard for their own interest, and for the interest of their friends and neighbours, as for yours?

And if this is the case, whom have you to depend on for assistance? Why, say some gentlemen, the King, the Prince, the Duke of Cumberland are our friends;

they will do it. I tell you, Sir, as a learned member\* near me justly observed, whatever the King's sentiments may be, he neither can, nor will do it alone. Neither his Majesty, Sir, nor I am sure any prince of the illustrious house of Hanover, will ever burden all, or even the smallest part of his subjects with any tax whatever, without consent of Parliament; and I believe I may freely say, Sir, that, were you to petition his Majesty to-morrow, he would immediately send you to Parliament; and the Parliament, I am afraid, would treat such a hasty application in a way I do not choose to mention.

To whom then do you go? To the ministry, say others. Why, neither can they do it. No one here has pretended to say, that any person about court, or in the ministry, for *court* is a very comprehensive word, has ever dropt the least hint, from which it might be inferred that they approve of this scheme. And if they should, Sir, no minister would choose to carry on an affair of this nature against so strong an opposition, as must certainly be expected. Such an attempt might prove fatal to him, whatever notions you may entertain of its ease and safety. Ministers love peace and security too well to embark readily in such dangerous projects.

As for your brethren of the Church of England, who have seats in Parliament, (though they indeed do not look on you as brethren), can you ever expect assistance from them? They who unjustly called and considered your predecessors as fanatics in religion, would now, if you should appear with this unprepared application, look on you as fanatics in temporals also.

Since I am speaking of the clergy of England, I must observe, that their livings taking them altogether, are far inferior in value to the livings in Scotland. Many of them were till lately about £10 a-year, and some even less; and though indeed they procured the minimum of their livings, as you call it, to be raised to £20 a-year, yet they procured it in a manner very different from that you now propose, and not without very great difficulty, though in the reign of a princess who loved them at least as well as any King can ever love you; and to this very day that augmentation goes by the name of *the Queen's*

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\* Mr. Alexander Webster at Edinburgh.



*bounty.* Thus, I say, were the generality of the small English livings raised to £20 a-year; but there still remain several that have not been a bit bettered by it. One instance I know within forty miles of London, where there is a living that afforded the present incumbent no more than £8 a-year, till lately, that by some funds of his own, and the interest of his friends, in order to enable him to purchase books for his study, and other necessities, he has got it augmented to the exorbitant sum of £16 sterling a-year; and that is in the county of Hereford.

As for the other set of men who compose the greatest part of the Legislature, I mean the English gentry or landed men, it can never be supposed that they will go easily into your proposal; for it is highly probable that they would be immediately alarmed at the consequences they would easily foresee might attend the success of your application. Such a precedent, they would apprehend, might put it into the heads of their own clergy to make a like attempt; and they already groan too much under the weight of their tithes, which lie very heavy on them, inasmuch that frequent orders are made in both houses of Parliament for lessening the burden of them as much as possible, not to be apprehensive of such an attempt, and sufficiently watchful over every thing that may tend in the least towards the heightening of a grievance which they already think almost intolerable.

Having thus, I hope, clearly demonstrated, that this application, if so hastily made, cannot be attended with the least hopes of success; and as it is apparent that very dangerous consequences must attend the failure of it, which at present is almost unavoidable: this being the case, I say, I flatter myself, that the advocates for the scheme, seeing the many obvious reasons that render an immediate application very dangerous to the Church of Scotland in general, will not now insist in the prosecution of it, any further than by appointing a committee, as proposed by an hon. gentleman\* near me; not indeed to take cognizance of the particulars necessary for forming a right scheme, and then determine, and apply to Parliament, as some gentlemen have absurdly enough proposed; but to examine into the state of the stipends in Scotland, and

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\* Hew Dalrymple, Lord Drummore.

funds for an augmentation, and then draw up a distinct scheme, and lay the whole, with their opinion, before the next Assembly, that that Assembly may judge, whether, from the whole, it will be then necessary to make application to Parliament; for surely there never was, at least I never heard of a committee being appointed by any court in the world, with power to determine, but only with power to report. If the contrary be practised here, I am sure it is singular, and done no where else. Indeed I have read in an idle story-book,\* of a Spanish archbishop, who employed his secretary to examine and inquire into the opinion the world had of his homilies, and report the same. The secretary, for some time did not fail to do so in favour of his master's compositions; but at last the bishop having preached a homily that did not please, the secretary unluckily presumed to exceed his commission, by determining instead of reporting; and for his reward was called a blockhead, and turned off with disgrace. But to proceed: When a report is made with precision, a proper foundation laid, a reasonable well-digested scheme made out, and approved by next Assembly, such as may with decency be presented to Parliament, and at the same time an address made to the landed interest for obtaining their countenance in the affair; then, I say, and not till then, can such an application carry with it the hopes of success: and for contributing to which, in that case, I shall always be ready to act to the utmost of my power, both by my advice and assistance in every shape whatever.†

The result was, That the Assembly "agreed to appoint

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\* Every reader of Gil Blas will understand the allusion.

† This speech was published on the 22d of May, and the former one next day. They were intitled, *The Substance of a speech, delivered, one by a Rev. the other by a Right Hon. Member.* In a note subjoined to the first, it is submitted, "how far any thing here expressed, has given any just ground to the misrepresentation and severe reflections published yesterday, in a speech as delivered in the Assembly by a right hon. member of that court?" But the following advertisement was published in the Edinburgh newspapers of June 1:—"Whereas a paper, intitled, *The substance of a speech delivered by a Right Hon. Member, &c.* has been published, it is thought an attention due to the public, to inform them, that the said paper has been published without the consent, or even knowledge, of the right hon. member of the Assembly; and does not contain what he spoke; many things being added, many left out: and what resembles in any degree what the said member spoke, is grossly mistaken or misrepresented." Notwithstanding this disclaimer, every one who is acquainted with Lord Marchmont's character, will discover internal proofs of the report of his speech being substantially correct. The reader may consult the *Marchmont Papers*,

a committee to take the matter under consideration, and to report what shall, upon proper inquiry, appear to them, to the next Assembly, in order to their making application to Parliament for an augmentation of stipends, or providing such other remedy as to them shall seem meet ;” and appointed Messrs. Andrew Dickson at Aberlady, Robert Hamilton at Hamilton, Alexander MacLaggan at Little-Dunkeld, Robert Dalgleish at Linlithgow, Alexander Webster at Edinburgh, and John Scot at Dumfries, ministers; and the Earl of Marchmont, the Lord President, the Lords Drummore and Shewalton, Mr. Robert Dundas, advocate, and John Forrest one of the Bailies of Edinburgh, Ruling Elders, to prepare a draught of the instructions to be given to the said committee. On their report, May 19, instructions were accordingly agreed on. The committee are authorised to address persons in power, members of Parliament, and the nobility and gentry of the landed interest in Scotland, for their countenance and assistance, and are warranted to call for money out of the Church’s funds ; the Commission are appointed to give them their advice and assistance when asked ; the Moderator of the Assembly is to be their Moderator ; and, after full inquiry, they are to prepare, and to lay before the next Assembly, a plan of the whole projected augmentation. The committee consists of fifty-seven ministers and twenty-seven ruling elders, but seven of them are declared a quorum. All those to whom it was committed to prepare a draught of the instructions are of the number. Among the ministers added are, Mr. William Steel at Sorn, Principal Campbell and Professor Leechman at Glasgow, and Professor Pollock at Aberdeen ; and among the ruling elders, the Earl of Leven, the Lord Justice-Clerk, the Lord Advocate, the Lord Strichen, Baron Maule, the Lord Provost of Edinburgh, and Mr. Robert Craigie, advocate.

In place of the overture about preaching *on Reformation and Revolution Principles*, transmitted to Presbyteries by last Assembly, the following general recommendation was

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published in 1831, by Sir G. H. Rose. The Earl died on the 10th January, 1794, aged 87. His daughter, Lady Diana Home, was married on the 18th April, 1754, to Walter Scott of Harden, whose son Hugh, was admitted by the House of Peers to claim the title of Lord Polwarth, in June 1835.

enacted May 19. It was agreed to without a vote.\*  
 “The General Assembly, considering the strong evidence we had, in the late wicked rebellion, of the obstinacy and restless spirit of the enemies of our happy constitution; the continued enmity they still show *to the best of governments*; and the vigilance and art with which they endeavour to lessen people’s zeal for the Protestant religion, and to carry them off from their adherence to the interests of the *Revolution*, and their fidelity and allegiance to our most gracious sovereign King George: and at the same time being sensible from past experience, how apt even the friends of our happy establishment are, in the continued enjoyment of peace, to fall into security, and thereby to give advantage to our vigilant enemies: do

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\* Some of the reasons for this change may be guessed at from the remarks of an anonymous writer of the day, (*Scots Magazine* for 1749, p. 80.) He says—“Every one knows, that there are in most parts of the kingdom, not a few avowed *Jacobites*, and numbers of others, who from their dependencies, connexions, or some such other cause, are very ready to listen to all the complaints of the *Jacobites*, and to disapprove of every measure they dislike or complain of. Not only the *Jacobites*, but cold and dispassionate Whigs, would be extremely apt to blame the mentioning or handling the points in the overture in the pulpit. The non-complying ministers, would, by their non-obedience, greatly endear themselves to all such, and that at the expense of their brethren, and make these be marked out for mischief and resentment from many—how soon they can and dare exert their anger and pride. This conjecture receives confirmation from what was seen to happen in late times. Some ministers prudence led to be silent and reserved in time of the rebellion, and abundantly cautious not to offend the then prevailing party: this made the honest zeal of their brethren be viewed in the worst light, and these to be sufferers by the comparison, and singled out for vengeance.” Again—“I apprehend, not a few ministers in the Church of Scotland are but ill fitted for the task this overture proposes to be put upon them. They may, from the knowledge they acquire at schools and colleges; from systems, sermons, and practical pieces, be able to do tolerably upon some common topics. But this is a quite new field, with which I am sorry to say, most of the clergy within my ken, do not seem to be sufficiently acquainted.” “Some are able to acquit themselves *upon the subjects themselves choose*, so as to satisfy themselves and hearers, *with little or no expense of paper*, and no much pains bestowed upon their sermons. Some through indolence and a state of languor and inaction, they have fallen into; others by being too much immersed in the cares, pursuits, and pleasures of life, spend no great time or pains in their preparations for the pulpit. In all these ways, many have got into a habit of preaching, if not *extempore*, at least without any due regular pains and application. But I do not see how without it, a man of no more than middling abilities can pretend to preach tolerably upon subjects that are so much out of what has been his common road hitherto; and if he does, a good cause may thus suffer in bad hands, by being weakly and injudiciously supported and maintained.” And he suggests “*That every minister be obliged to shew his sermon in writ to his Presbytery some time before he preach it.*”



therefore earnestly *beseech* and *obtest* all the ministers of this Church, to continue to be diligent in instructing the people committed to their care in those principles of pure christianity that are particularly opposite to the errors and corruptions of *Popery*, and in the grounds and reasons of the *Reformation*, and the principles on which the late *glorious Revolution* and our present happy establishment are founded; and to stir up all to a grateful sense and suitable improvement of the inestimable blessings we enjoy, by the free exercise of the pure religion of Jesus, and the security of our liberties and properties under a legal government. And for these purposes, and perpetuating the memory of the great things God has done for us in these lands, the General Assembly do warmly *recommend* to all the ministers of this Church, to preach expressly and on purpose on the subjects above-mentioned,\* or some of them, at least four Lord's-days every year, with proper exhortations to their people, and suitable prayers and praises to our most gracious God, in the name of the only mediator between God and man, our Lord Jesus Christ. And further, the Assembly do earnestly recommend to all Presbyteries, to take a watchful inspection of *schools* within their bounds, and of the character and behaviour of *schoolmasters*; and to take care that they be qualified *by taking the oaths to the government*, and that they instruct the youth in just principles of *religion* and *loyalty*."

A petition was presented from *the schoolmasters in Scotland*, craving the countenance of the Church with respect to their intended application for an augmentation of their salaries; and a motion was made, May 19, that the committee of bills should be appointed to meet, in order to transmit it to the Assembly if they saw cause: but in respect the petition was not timeously put into the Clerk's hands, agreeably to the Acts of Assembly, they refused to order a meeting of the committee of bills.†

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\* The Synod of Perth and Stirling appointed a sermon on these subjects to be preached before them at every meeting—some of which were published, *e. g.* one by Mr. *Patrick Bannerman* of Kinnoul, in 1751, and one by Mr. *John Bonar* of Perth, "On the Ecclesiastic Constitution in Scotland," in 1760.

† The clergy might think the Schoolmasters' application to Parliament somewhat *inopportune*, until their own was disposed of. But their refusal to entertain this petition on a mere point of form was unfortunate, and was made a handle against them by the landed interest in the subsequent discussions on the Augmentation-Scheme.

On a petition for Allan Livingston, keeper of *the Advocates bar* in the Court of Session, the Assembly, May 20, ordered that himself should be paid four guineas, and his servant, Peter Borthwick, one guinea, every year, in consideration of his permitting all the ministers of the Church of Scotland, and those concerned in the Assembly's Clerk's office, to enter the said bar.\*

*Case of Culross.*—This was the case of a disputed patronage, which the *ecclesiastical* and *civil* courts decided in different ways. It was before the Assembly of 1748, (see p. 112) but as it was not finally disposed of by that court until the present year, we shall now give a full statement of its general nature and ultimate results. It excited very great interest at the time, and is the first case on record where the temporalities of a parish were *practically* disjoined from the spiritual cure,—though some of the principles involved in the decision of the Court of Session had been recognized by them in the case of *Auchtermuchty*, (1735) and were afterwards applied in the cases of *Lanark*, *Forbes* and *Kearn*, &c.

In 1663, Alexander, Earl of Kincardine, obtained a charter from the crown, by which the patronage of the kirk of Culross was *per expressum* granted. The Earl of Kincardine's whole estate, including this patronage, was brought to a judicial sale before the Lords of Session in 1700, and was purchased by Col. John Erskine of Carnock. The Colonel exercised his right of patronage, by uniformly uplifting and disposing of the vacant stipends so oft as a vacancy happened, as appears from the Presbytery records; though, from a delicacy in point of conscience as to the legality of the public oaths, he never did present, but allowed the *jus devolutum* to take place. In November, 1746, the charge of second minister of Culross became vacant by the death of Mr. Geddes. Soon after, Mr. Charles Cochran of Culross, advocate, purchased the patronage afore-mentioned, from Mr. John Erskine,† the Colonel's son and heir; and obtained a charter under the great seal, in which it is contained, dated Feb. 12, 1747; but it is to be remarked that Mr. Erskine never was himself infeft, nor in possession of the patronage.

\* Other societies were, in those days, in the practice of paying a *douceur* for this privilege.

† The author of the "Institutes" of Scots Law, and father of Dr. Erskine,

On the 4th of May, 1747, a procurator for Mr. Cochran went to the house of the Moderator of the Presbytery of Dunfermline, and there, under form of instrument, lodged with him a presentation to Mr. William Trotter, probationer, to supply the vacancy aforesaid, with Mr. Trotter's letter of acceptance. Mr. Trotter had accepted of another presentation to the church of Borrowstounness, which was then depending before the Church-judicatures, and he was an absolute stranger to the parish of Culross.

On the 3d of June, the presentation and acceptance were laid before the Presbytery ; and they appointed Mr. Trotter to preach at Culross the two Sundays following. At next Presbytery, July 1, Mr. Cochran's aforesaid charter was produced, containing a grant of the *jus patronatus ecclesiæ parochialis de Culross* ; and compearance was at the same time made for the heritors, for the magistrates and town-council, and for the kirk-session of Culross. In behalf of these it was objected, 1. That the kirk of Culross belonged to the abbacy of that name, and reverted to the crown upon the Reformation, and was erected in favour of the Lord Colvill of Culross ; that nothing was produced to show, and it did not appear, how either the crown or Lord Colvill was divested of this church, or of the patronage of it, in favour of Mr. Erskine, Mr. Cochran's author ; that no possession had been had by either of these gentlemen ; and that therefore this objection was good, even though the question were with respect to the first minister. But, 2. That supposing Mr. Cochran should be found to have right to present the first minister, yet he had no right to present the second : for that the second minister had been established upon a voluntary contribution by the heritors, the town, and the laird of Carnock, in 1648 ; that it was part of this new erection, that the presentation of this second minister should be in thirteen delegates, to be chosen in proportion to the mortifications for the stipend, viz. five by the heritors, four by the magistrates and council, and four by the laird of Carnock ; that it appeared from the records of the Session and of the Presbytery, that Mr. Edmonston, the first minister admitted to this charge, was so presented ; that there is no evidence of the patron of the first charge having ever possessed or claimed the right of presenting to the second, though it is now a century since the erection ;

that therefore, whether the crown or Mr. Cochran were patrons of the parish of Culross, the presentation of the second minister belonged to the contributors for the stipend, and their thirteen delegates; and that as they had not presented within the six months, the right had fallen to the Presbytery. A moderation at large was therefore craved, in opposition to Mr. Cochran's demand of a moderation in favour of his presentee only.

It was answered for Mr. Cochran, 1. That it did not belong to the Presbytery to inquire, whether Mr. Erskine, as in the place of the Colonel his father, had such right established in his person as entitled him to resign this patronage into the crown's hands *in favorem* of Mr. Cochran; that if the proper officers intrusted with expediting such charters were satisfied in this particular, and thereupon expedite the charter, it was *jus tertii* to the Presbytery, and not a little officious, to question the crown's grant; whilst at the same time their own records proved, that Colonel Erskine was in the enjoyment and exercise of that right, and the Colonel's title, viz. the decret of sale before the Lords of Session, appeared *ex facie* of Mr. Cochran's charter; and that neither the crown, nor any other person as deriving right from the crown, was then claiming, or objecting to Mr. Cochran's title. 2. That the records of the Kirk-session were not probative; that if the second charge was originally founded upon a voluntary contribution, the stipend of it came, in progress of time, to be also localled upon the tithes; and that no distinction could be made between the first and the second minister, for that Mr. Cochran's right, as patron of the church itself, would have comprehended twenty ministers, had as many been established in this collegiate charge.—It is said, That the heritors of three-fourths of the valued rent of the parish, and a great many heads of families, concurred with Mr. Cochran; but that a considerable number of the heritors, all the then magistrates and town-council, and the whole kirk-session insisted for a moderation at large, which the Presbytery unanimously agreed to grant.

At the moderation, Aug. 26, 1747, a call came out in favour of Mr. Thomas Fernie, one of the ministers of Dunfermline; this call was approved of by the Presbytery on the 16th of September; and Mr. Cochran having



appealed, the Synod of Fife, Sept. 30, 1747, affirmed the Presbytery's sentence. Mr. Cochran appealed to the Assembly.

After these proceedings in the ecclesiastical courts, Mr. Cochran brought a declarator of his right of presenting both the first and second minister, before the Court of Session, containing a conclusion of his right to the vacant stipends; in which he called as defenders, first the heritors, and afterwards, upon objections made and a multiple-poiniding raised by them, the town-council of Culross, and the officers of state in behalf of the crown.

On the 20th May, 1748, the Assembly affirmed the Synod's sentence, approving of the call to Mr. Fernie. But this gentleman refused to accept. A new moderation was then applied for. Mr. Cochran craved, that as his declarator behoved soon to be finally determined, having had already repeated interlocutors of the Lord Ordinary in his favour, against which nothing material was objected, all further procedure in the settlement might be delayed for two or three months. But a moderation at large was again allowed to proceed: and though Mr. Cochran appealed, first to the Synod, and then to the Assembly; yet a call having come out Oct. 6, in favour of Mr. James Stoddart, the Presbytery, without regarding the appeal, approved of it, and settled him on the 24th of November—"and by so doing (says Mr. Cochran) did not only tread under foot the laws of the land, and Mr. Cochran's undoubted right of property; but did even violate the established rule of the Church-judicatures, which, after an appeal taken, prohibits the inferior judicatures from proceeding to an actual settlement, though it allows them to take the steps preparatory to it."

It was said for the other side, That Mr. Cochran's objections to Mr. Stoddart's settlement, and his several appeals, were founded singly upon his presentation to Mr. Trotter, in May 1747; that he then relied singly upon his charter in 1747, without giving any evidence, that the crown, or the lord of erection, had granted this patronage to his author; that it was not till after Mr. Stoddart's settlement, that he condescended upon a charter on record, dated in 1663, granting the patronage of Culross to the Earl of Kincardine, whose estate was purchased by Col. Erskine, father to Mr. Cochran's immediate author; and

that as this presentation had been judged and set aside by the Assembly 1748, the Presbytery and Synod did not think themselves authorised to reconsider and revive what had been disallowed of by their superiors.

Mr. Cochran's declarator was still going on, though retarded by several dilatory defences. The Lord Ordinary had, on the 23d of July, 1748, granted the defenders a diligence for recovering the original contract said to have established the fund for supporting the second minister; in pursuance of which several persons were examined on the 15th and 18th of November; and their depositions, with other evidence brought in behalf of the defenders, having been advised by the Ordinary, his Lordship, on the 10th of January, 1749, preferred Mr. Cochran to the crown in the presentation of the first minister, and of consequence found he had right to the presentation of the second; and found, that the defenders had not brought sufficient evidence, that the contributors had reserved to themselves the right of presenting the second minister. A reclaiming bill was presented in behalf of the crown, (but none for the other defenders); and the Lords, Jan. 21, 1749, refused it without answers.

In May 1749, the committee of bills refused to receive, or to transmit to the Assembly, Mr. Cochran's appeal against the settlement of Mr. Stoddart; and Mr. Cochran having complained, the Assembly remitted his complaint\* to their Commission; who approved of the conduct of the committee of bills.

After Mr. Stoddart's settlement, Mr. Cochran raised a multiple-poining in the name of the heritors liable in stipend, calling Mr. Cochran himself as patron, and Mr. Stoddart, in order that their rights to the stipend might be determined; whether Mr. Stoddart, as second minister, had right to it by virtue of his admission; or if Mr. Cochran, as patron, had right to it as vacant stipend. The multiple-poining was remitted to the Lord Justice-Clerk, before whom the declarator was depending; and his Lordship having taken the debate to report, informations were given in by his direction.

It was pleaded for Mr. Stoddart, 1. That as his set-

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\* A committee was appointed to converse with Mr. Cochran, and to give in their report to the Commission.

tlement was affirmed by the supreme judicature of the Church, this judgment was, by the Act 7, Parl. 1567, final, and conclusive against all parties concerned; and that therefore Mr. Stoddart was legally the second minister of Culross, and consequently entitled to the stipend.

2. That by the Act 115, Parl. 1592, upon which Mr. Cochran founds, the patron is not entitled to retain the fruits, except when the Presbytery refuses to admit *any qualified minister* presented by him; whereas his presentee was a probationer, and is not to this day a minister.

3. That Mr. Cochran's right to present the first minister was the matter of litigation between the crown and him till a considerable time after Mr. Stoddart's settlement; that his right of presenting a second minister was not mentioned in his charter, and that very probable evidence was brought from the records of the Kirk-session and the Presbytery, that whether Mr. Cochran or the crown was patron of the church, yet that neither of them had right to present the second minister; that Mr. Cochran had found it necessary to ascertain his right by a process; that as he had not brought that action to a conclusion, not only during the six months allowed the patron to present, but not within two years, and not till after Mr. Stoddart's admission, he could not pretend to draw back his decret of declarator pronounced in January 1749, to May 1747, to prevent the lapse, much less could he draw it back after the vacancy had been supplied in November 1748; that the Presbytery were not made parties to Mr. Cochran's declarator, nor was there any proper notice given them of the proceedings had in that process, and that at this day it remains unextracted; that where a patronage is litigious, a presentation does not stop the lapse, unless the ecclesiastic person, or body-politic, to whom the presentation falls to be made, is made a party to the civil action for ascertaining the patronage; and that if a presentation is offered by a contested patron, it is not proper for the Presbytery to delay the settlement till such competition be determined, which may depend many years, as the present did upwards of two; but they are bound to plant the church in the mean time, leaving the patron who shall prevail, to use his right in time coming, but without prejudice to the right of the minister settled by the Presbytery in the mean time.

It was answered, 1. That with regard to the first defence, which seemed to import a declinature of the jurisdiction of the court,—as the ordination and settlement of ministers, whereby the pastoral relation is fixed, does undeniably belong to the Church-judicatures, it is equally clear, that the right to the benefice is not an ecclesiastic right, dependent on the ordination conferred by the Presbytery, but is matter of civil right, depending solely upon the civil laws of the land, and as such cognoscible by the civil courts; that so it was solemnly judged in the case of Auchtermuchty, where the Lords found, upon report, Feb. 14, 1735, “That the right to a stipend is a civil right; and therefore that this court has a power to cognosce and determine upon the legality of the admission of ministers *ad hunc effectum*, whether the person admitted shall have right to the stipend or not;” that by a subsequent interlocutor, Feb. 15, 1735, it was further found by their Lordships, “That Presbyteries refusing a presentation duly tendered to them in favour of a qualified minister, against which presentation or presentee there lies no legal objection, and admitting another person to be minister, the patron has right to retain the stipend, as in the case of a vacancy;” and that the rights of patrons were established or confirmed by the Acts of Parliament 1592, 1612, and 1712. (No notice seems to have been taken in the information for Mr. Cochran, of the distinction between a probationer and a minister.) It was answered, 2. That in the other defence, the Presbytery pleaded a kind of *bona fides* in settling Mr. Stoddart, on pretence that Mr. Cochran’s right was doubtful. But that this was fully obviated in the foregoing state of the case; for that no competing right was produced to the patronage of either the first or second minister; and that therefore it was superfluous in Mr. Cochran to have raised his declarator: which, however, if fair things had been intended, ought to have made the Presbytery slacken their proceedings to a final settlement; but as this would not have answered the favourite point in view, as they well knew what the fate of their objections would be, the settlement was hurried on, notwithstanding the appeal to the superior judicatures, while at the same time the declarator was retarded as much as possible.

The judgment of the court was in these words—“Edin-



burgh, June 26, 1751. On report of the Lord Justice-Clerk, the Lords prefer Mr. Cochran, the patron, in the multiple-poiding; and decern against the heritors in payment to him, not only of the stipends that fell due before the settlement of Mr. James Stoddart, but also of the stipends that became due after the said settlement."

The only dissentient from this judgment was *Lord Elchies*.\* He says in his Notes (*Patronage* No. 4)—"I was of opinion that Mr. Cochran's right not being clothed with possession, and being disputed both by the crown and the town, the Presbytery was not obliged to wait *more than two years* till he cleared his right, and therefore was for sustaining the defence. But the Lords thought that the opposition to Mr. Cochran's right was affected and spirited up by the Presbytery, and therefore found that the patron had right to the benefice, and preferred him to the minister, *me renit*. Justice-Clerk and Leven did not vote. *Pro* were Minto, Drummore, Strichen, Kilkerran, Murkle, Shewalton, Woodhall."

There are three reports of the Court of Session's proceedings in this case of Culross at three different stages, viz. 1st,) Nov. 19, 1748. *Fol. Dict. IV*, p. 49. *Morison*, 9909. *Kilkerran*, "Patronage" No. 2.—2d,) Jan. 21, 1749. *Fol. Dict. IV*, pp. 50, 54. *Morison*, 9909. *Kilkerran*, "Patronage" No. 3.—3d,) June 26, 1751. *Fol. Dict. IV*, p. 52. *Morison*, 9951. *Elchies*, "Patronage" No. 4. *Falconer*, No. 213, p. 256. It is one of the cases most frequently referred to in the late *Auchterarder* Process; and the different applications made of it may be seen in the speeches of Mr. *Whigham* (Report vol. I, p. 82), Dean of Faculty *Hope* (I. 310), Lord *Gillies* (II. 48), for the Pursuers; and of Mr. *Bell* (I. 119), Solicitor-General *Rutherford* (I. 402), Lord *Fullerton* (II, 247), and Lord *Moncreiff* (II. 352), for the Defenders.

Mr. Stoddart took no appeal to the House of Lords. Sir Henry Moncreiff supposes (*Life of Erskine*, Appendix p. 427) that one reason of this might be, that he had been settled in the face of an appeal to the Assembly. But the Reverend Baronet does not seem to have been aware of the fact that the appeal *did* go to the Assembly, and

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\* No mean authority however—witness the language of the Dean of Faculty (*Hope*), who styles him—"that great man, the ablest of all our lawyers."—*Report of the Auchterarder Case*, vol. I, p. 322.

was found to be so incompetent or irregular in form that the Committee of Bills refused to transmit it. Sir Henry was also in a mistake in supposing, that Mr. Stoddart did not litigate the point as to his right to the stipend.

It is understood that the parishioners of Culross compensated to Mr. Stoddart the loss of his stipend by a voluntary contribution. When the violent settlement of Inverkeithing took place in 1752, he pled his anomalous situation as an apology for his absence from the Presbytery, and the Assembly sustained the excuse.\* He did not however remain long at Culross, having in 1753, succeeded Dr. Erskine at Kirkintilloch, that gentleman succeeding Mr. Hardy† in the first charge at Culross, and Mr. Stoddart being succeeded in the second by Mr. Robert Rolland, who survived to the year 1815. Mr. Stoddart is described by Sir Henry Moncreiff as a “conscientious minister, and a man of considerable ability.” He published in 1764 a sermon on “The Revival of Religion,” preached in the High Church of Glasgow, before the Synod of Glasgow and Ayr.‡

*Case of Dunse.*—This case also came before the Assembly of 1749, and as various questions of a general nature were raised in its discussion, we present the following account of it, taken from the papers on both sides:—

In 1737, Lord Blantyre obtained a disposition to the patronage of the parish of Dunse from Mr. Hay

\* On the day when the settlement was at last effected, the Moderator of the Presbytery received from him the following letter, which would seem to imply that his stipend was not *fully* made up to him in a voluntary way:—

*Culross, June 17th, 1752.*

Revd. Sir,—I need not tell you that there is no alteration in my situation to the better. My *singular circumstances* you know excused me to the General Assembly in not intermeddling in the settlement of Inverkeithing. They still remain the same *to my great loss*, and will no doubt be accounted but too good a reason by you for my not being among you at your meeting. I am, Revd. Sir, your most humble and obedient servant,

(Signed)

JAMES STODDART.

† Mr. Hardy died of consumption on the 4th May, 1752, aged 36.—*See* p. 113.

‡ As for Mr. Cochran, the patron, he did not long survive the success of his plea, having died on the 19th September, 1752. He was a connection of the Dundonald family (his brother, Thomas, became Earl of Dundonald, in 1758), and like others of that house, appears to have been a man of a violent and stubborn temper.—*See* p. 113.

of Drummelzier, and presented Mr. Roger Moodie. Great opposition was made to the settlement through all the judicatures of the Church, but no objection was ever made to Lord Blantyre's right of patronage : and at last the presentee was settled. The parish became again vacant in April 1748, by the death of Mr. Moodie. Mr. Hay of Drummelzier was still reputed patron : but as he was not qualified to the government, it was uncertain what part he would choose to act. At length it came to be known, that he had granted a disposition of the patronage to Mr. Hay of Belton, said to be in trust ; and infestment followed upon it in the month of July. On the 2d of August, Belton, as patron, lodged a petition with the Presbytery, representing, that he had signified to the heritors and elders of the parish, his intention of presenting Mr. Adam Dickson, probationer, son of Mr. Andrew Dickson, minister at Aberlady, and desiring the Presbytery would appoint him to preach, first before themselves, and afterwards before the parish. This was backed by a petition from some heritors, likewise craving a hearing of Mr. Dickson. But the Presbytery delayed giving any judgment upon these petitions, till proper evidence should be laid before them of Belton's right.

At their next meeting, Sept. 6, Belton's doer gave in the following papers, viz. 1. A disposition of the patronage of Dunse by Drummelzier to the late Lord Blantyre, in 1737. 2. A general service of the present Lord Blantyre as heir to his father, in 1745. 3. A disposition of the said patronage by the present Lord Blantyre to Belton, dated at Caen in Normandy, Aug. 7, N.S. [July 27, O.S.] 1748. 4. A presentation by Belton to Mr. Dickson, dated August 27, 1748. 5. Mr. Dickson's letter of acceptance, dated Sept 3, 1748. But the disposition granted by Drummelzier to Belton was not founded on nor produced. Other two heritors now craved a hearing of Mr. Dickson, and nineteen heritors in all signified their concurrence with him. The Presbytery appointed Mr. Dickson to preach before them at their next meeting ; but waived giving judgment with regard to Belton's right of patronage. On the 4th of October, (the next meeting of Presbytery,) Mr. Dickson was appointed to preach at Dunse the four following Sabbaths ; but the consideration of Belton's right was adjourned.

On the 1st of November, a petition was presented to the Presbytery by some heritors, elders, and others, in the parish of Dunse, desiring that a moderation of a call might be appointed to Mr. Dickson, in regard they had heard him once and again to their great satisfaction: and the same demand was made for Belton, as patron. The Presbytery delayed advising this, till judgment should be given as to the patronage. Several members made objections to Belton's right; particularly, That the disposition by Drummelzier to the late Lord Blantyre, and likewise the later one by the present Lord to Belton, were both of them collusive deeds, granted in trust, in order to evade the objection that might have been made against Drummelzier for not qualifying. To support this, it was observed, That as Drummelzier had lately disposed the right of patronage to Belton, notwithstanding that it was pretended he had before disposed it irredeemably to the late Lord Blantyre, this evinced, that the disposition to Blantyre was only in trust, and that the right reverted to Drummelzier after the settlement of the last incumbent: and it was further observed, that as the disposition from the present Blantyre, on which Belton now claims, bears date at Caen, in Normandy, Aug. 7, N.S. it could not be in his possession Aug. 2, O.S. when a petition was lodged with the Presbytery signed by him as patron; and could have no existence when he wrote to the heritors in that character some time before; so that it must have been only procured after receiving advice, that the using the disposition from Drummelzier to Belton, would have made the collusion appear palpably. Belton averred, that he knew nothing of collusion in the matter; and being put to oath upon it by the Presbytery, he deponed, That he knew nothing concerning the disposition from Drummelzier to Lord Blantyre, whether it was in trust or not; that by the disposition from the present Lord to himself, he had an absolute right to the patronage for life, and had given a back-bond, obliging his heirs to denude after his decease; and that he knew nothing of his being infeft before the 1st of August last in consequence of a disposition in his favour from Drummelzier: and his council in his hearing, affirmed that Belton knew nothing about this last mentioned disposition.

This meeting of Presbytery came to no final resolu-



tion with regard to Belton's right ; but as he perceived that the majority of them were determined to sustain the objections that had been made to it, he brought a process before the Court of Session, for having it found and declared, That he was patron ; that Mr. Dickson was duly and timeously presented, was qualified, and did accept of the presentation ; that the Presbytery had no right to present *pro hac vice*, or to moderate a call at large, or in favour of any other than the presentee, on pretence of a *jus devolutum* ; and that Belton, as patron, had right to uplift the stipend, and to dispose of it to pious uses, till Mr. Dickson should be settled : and as the Presbytery were the only persons who had objected to his right, they were the only persons called as defenders.

At the next meeting of Presbytery, Dec. 6, there was produced, in proof of the alleged collusion, a receipt, dated Nov. 27, 1740, under the hand of Alexander Ainslie, factor for Drummelzier as patron of the parish of Dunse, for some vacant stipends of crops, 1737 and 1738. To this no answer was made by the doer for Belton (not his lawyer) then present : and the Presbytery having a just regard to the laws made for the security of the government, and being unwilling to give countenance to deeds that appeared to them collusive, they upon the whole gave judgment, finding, That the presentation by Belton was no bar to their proceeding to a moderation at large ; and they appointed a call to be moderated accordingly on the 23d of December : against which Belton's doer appealed to the Synod. There was afterwards recovered a decret from the Sheriff of Berwickshire, dated Jan. 1, 1741, "at the instance of Alexander Ainslie, Bailie of Dunse, factor appointed by Alexander Hay of Drummelzier, patron of the parish of Dunse, for uplifting the vacant stipends of the said parish for the crops and years 1737 and 1738, conform to his factory, dated the 9th, and registrate in the Sheriff-court books of Berwick the 15th of October 1740," against a great number of the parishioners.

It was observed for Belton, that the Presbytery thus cut down the patron's right, upon objections moved by themselves, and judged by themselves ; and that they were the sole spring of all the opposition made to his presentee ; for that neither at this meeting, nor at any one before it, had there been any opposition shown to Mr.

Dickson, nor a single petition desiring a moderation at large; whereas almost the whole heritors of distinction, some of the elders, and a great number of the heads of families, had applied at different times to have a call moderated to the presentee. One member of the Presbytery, in particular, was named; of whom it is said, that the next day after the death of Mr. Moodie, the last incumbent, he wrote a letter to Drummelzier, whom he took to be patron, or to have great interest with Lord Blantyre, the true patron, acquainting him with Mr. Moodie's death, and adding, "As oftener than once you was so good as signify your inclinations to serve me, had an opportunity cast up, this encourages me now to ask a favour that is entirely in your power to bestow; and which if you condescend to grant, might, I hope, be made effectual without much trouble. *In my little way of life, the benefice of Dunse would be of great consequence*, as it is fully a third above what I now possess;"—that on finding himself disappointed, he declined being a judge in any question relating to the patronage, and betook himself to the character of a party, being an heritor in the parish of Dunse to a small extent; and that a few days after the Presbytery meeting of Dec. 6, he went to the town of Dunse, with a petition, or dictated a petition there, for moderating a call at large, which, by specious arguments, (such as, That this was a way to cut down patronages altogether; that as he had formerly disobliged them in promoting the settlement of Mr. Moodie amongst them, he was now willing to make amends for a fault, &c.), he prevailed on sundry to sign.—On the 23d of December, the Presbytery sustained a call to Mr. James Lindsay, minister at Dumbarnie.

In January 1749, Belton's declarator was called in the Court of Session. On his appealing from the sentence of the Presbytery, Dec. 6, his proxy having demanded back the titles of his patronage, in order to lay them before the Synod, the Presbytery refused to give them up, in regard they were called to produce them before the Court of Session; but now they pretended they could not produce them before the Court of Session, because they were called to produce them before the Synod. However, in consequence of an application for a diligence, the whole writs were produced.—Several objections were moved for the

Presbytery, tending to show that Belton had no right ; or, if he had, that it was fallen to them in virtue of the *jus devolutum*. But the Lord Elchies, Ordinary, Jan. 31, “repelled the objections, and decerned and declared.”—Against this interlocutor a full representation was given in, to which answers having been made for Belton, the Lord Ordinary, after stating the case to the Lords, pronounced the following interlocutor, Feb. 15 :—“Having considered the representation given in for the defenders, with the answers for the pursuer, and advised the Lords thereanent, repells the objection made both to the pursuer’s right, and to the person by him presented, on account of his not having taken the oaths before his first license, in respect of the answers : and finds, that the pursuer had *in possessorio* sufficient right to present ; and that the right had not fallen to the Presbytery *tanquam jure devoluto* ; and decerns and declares.”—A reclaiming petition\* was given in, and the procurator for the Church moved, that a hearing in presence might be appointed before any judgment was given. But the petition was refused without answers on the penult day of the Session. The Lords “adhered to the Lord Ordinary’s interlocutor, and refused the desire of the petition, in so far as it reclaimed against the said interlocutor ; and found, that the general words, *decerns and declares*, can go no further than the particulars decerned.”†

\* This petition prayed the Court “to review the Lord Ordinary’s Interlocutor, and to find—*Imo*, That no action is competent before your Lordships for reversing the judgments of a Church-judicature in the settlement of a minister in a vacant parish : And, *2do*, To find that a declarator of a right of patronage against a Presbytery or Synod is not properly brought, and that the Presbytery and Synod are not proper defenders in such an action : And, *3tio*, to find that the qualifications of a presentee to a vacant church are not the proper subject of a declarator before a civil court in Scotland : And, *4to*, That it is not competent to your Lordships to grant an injunction to the Church-judicatories in Scotland not to settle a minister in a vacant parish ; and, therefore, to assoilzie the Presbytery of Dunse from the present declarator.”

† Reports of the proceedings of the Court of Session, in this case, will be found in *Falconer*, vol. ii. p. 68 ; *Morison*, 9911 ; *Brown’s* 5th Supplement, 768. The different views taken of it, as to its bearing on the late Auchterarder case, will be seen from the report of that case, in the speeches of Mr. *Whigham* (I. 80), Dean of Faculty *Hope* (I. 308), Lords *Gillies* (II. 48), *Mackenzie* (II. 129), and *Corehouse* (II. 234), for the Pursuers ; and of Mr. *Bell* (I. 114), Solicitor-General *Rutherford* (I. 401), Lords *Fullerton* (II. 247-9), *Moncrieff* (II. 351), and *Cockburn* (II. 409), for the Defenders.—According to Lord Monboddo’s Report (as given in *Brown’s* Supplement), Hay of Belton had also concluded to have it found “that

The Synod of Merse and Teviotdale, after hearing the cause, April 19, "having considered the importance of the affair, and the difficulties that attended it, referred the whole to the Assembly for their final decision."—Against which sentence Belton appealed to the Assembly.

Of the objections made to Belton's right, before the civil and ecclesiastical courts, the following are the most important:—

*Objection.* No process can proceed, because all parties having interest are not called,—particularly the officers of state, the crown being presumed patron wherever an unquestionable right does not appear,—nor the heritors, not even Drummelzier, though proved to have been last in possession, by taking a decree for the vacant stipends.

—*Answer.* If the patronage be in Drummelzier, the crown has no right to it; and that no part of it remains still in Drummelzier's person, is proved by a disposition of it from him to Belton, produced. In general, it is submitted, if the rights produced be not sufficient to establish the right in Belton, in competition with a Presbytery who pretend no title but a *jus devolutum*?

*Obj.* That the whole of this transaction was a collusive subterfuge, between Drummelzier, the late and present Lords Blantyre, and Belton, to save Drummelzier from qualifying, appears [from what is said above, as also] by Drummelzier's uplifting the vacant stipends after he pretended to have disposed the patronage to Lord Blantyre, and by Belton's now producing a disposition from Drummelzier, which before the Presbytery he was said to have known nothing of.—*Ans.* 1. There is no statute which requires that a person must qualify before he can dispose his right of patronage; and, therefore, Drummel-

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he had right to the stipend till the presentee was settled; and that the Presbytery ought to be discharged to moderate a call at large, or settle any other man." But these conclusions "the Lords would not meddle with," because as to the former, the Presbytery were not the proper contradictors; and as to the latter, "that was interfering with the power of ordination or internal policy of the Church, with which the Lords had nothing to do."—*See also Dunlop on Parochial Law* (Edin. 1835), p. 308. In the pleadings in the Auchterarder case, the Counsel for the Pursuers called in question the accuracy of Lord Monboddo's Report on these points, which the other side as strenuously maintained. It is admitted that they are not stated in the interlocutor; but as is remarked by Lord Cockburn (II. 409), the *principles* of decision are seldom formally embodied in them.



zier had full power, by law, to dispoſe this patronage to Lord Blantyre, upon a particular occaſion, for a number of years, for a lifetime, or for ever, as to him ſeemed beſt. Should it be objected, That by this means the law which requires patrons to qualify might be eluded, by a patron's diſpoſing his right to another to ſerve a turn, the answer is obvious, That the law has not obviated any ſuch ſubterfuge, and the law muſt be the rule; that imperfections are found every day in the law, but no judges pretend to ſupply it; that it belongs to them to judge according to the laws made, but to the Legislature only to make laws; that an inſtance of this occurs in the laws relating to the elections of members of Parliament. For as the laws formerly made were not calculated to prevent perſons claiming to vote under truſt-deeds, therefore, in many inſtances, they were admitted to vote in theſe circumſtances, and yet no power whatever pretended to correct ſuch abuſes, till the Legislature of late made a law of purpoſe to put a ſtop to them; and that, in like manner, all courts, civil and eccleſiaſtic, muſt determine by the law as it now ſtands in this caſe, and cannot take upon them to cut and carve *ad libitum* upon the property of the ſubject. Beſides, the government is ſufficiently ſecured, by obliging the perſon preſenting to qualify; for it cannot be ſuppoſed that ſuch a perſon would preſent a man whoſe loyalty he was not fully convinced of. 2. There is no evidence of collusion between Drummelzier and Lord Blantyre. Belton deponed that he knew of none;—and the objection of collusion comes with a bad grace from the Preſbytery, after Belton has cleared himſelf of it by an oath, and by an oath put by themſelves. Nor can Drummelzier's factor's having uplifted the vacant ſtipends infer collusion; for, as the vacancy was fallen before Drummelzier diſpoſed his right, it was natural for him to reſerve to himſelf the ſtipends that would fall due during the vacancy. Theſe were a ſubject under his eye, which he would very naturally think of laying hold of. 3. Colluſion between Drummelzier and Lord Blantyre, though proved, could not affect Belton, as he was not privy to, nor did partake of it. He procured his right *bona fide*; and as he is a ſingular ſucceſſor, he cannot be prejudiced by any collusion betwixt his author and Drummelzier, otherwiſe every qualified patron in Scotland behoved to

bring evidence for forty or more years back that all his authors had qualified, which would be impracticable.— The only circumstance of collusion the Presbytery can instance against Belton is, that he obtained likewise a disposition from Drummelzier to this patronage. But Belton never made use of this disposition as his title to the patronage: he only produced it in the Court of Session, to answer the Presbytery's objection, That the patronage ought still to be considered as in Drummelzier's person; and to show, that any right Drummelzier had was likewise transferred to him. And it is very common, when one purchases a right, not to rest satisfied with a disposition from the person who appears to have that right established in him, but likewise to take collateral rights and securities from every other person who can be suspected of having any claim upon the subject.

*Obj.* 1. That part of the interlocutor of the Court of Session, finding that the right had not fallen to the Presbytery *tanquam jure devoluto*, is of ecclesiastical jurisdiction. Were it otherwise, the Church-courts could not proceed almost to any settlement. As the point which falls generally to be first decided is, Whether to appoint a limited moderation, or one at large? how could a Presbytery judge of that, were it not of ecclesiastical jurisdiction to determine when the *jus devolutum* took place? The Court of Session might indeed be resorted to, as the proper judges with regard to any claim the patron might have touching the temporality of the benefice; but that the civil courts should interpose to preclude the Church from judging in any preliminary towards the settlement or ordination of a minister, is altogether new. 2. As the ordaining of ministers, and appointing them their proper functions, is a right inherent in the Church, independent of the civil society; so by the municipal law of Scotland this power is confirmed. By Act 7, Parl. 1567, made immediately upon the Reformation, it is enacted, "That if the Superintendent, or Commissioners of the kirk, (to whom presentations were to be made), should refuse to receive and admit the person presented, it should be lawful to the patron to appeal to the superintendent and ministers of the province; and upon their refusal, to appeal to the General Assembly of this hail realm, *by whom the cause being decided, shall take end as they decern and*

*declare."* This Act was ratified by the Act 1, 1581, and again by the Act 114, 1592, which contains the establishment of Presbytery as the National Church, and is revived and renewed by the Act 5, 1690, resettling Presbyterian Church-government. Nor can it be denied that the Church of Scotland has at all times been possessed of this privilege during the establishment of Presbytery: for whether the right of presenting ministers was by law in the patron, or in the heritors and elders, or in these last with consent of the congregation; yet still the power of receiving, ordaining and admitting a presentee, was by law vested in the Church, and the decision of the supreme ecclesiastical court hath hitherto been held to be final in all such questions. But if the civil court can interpose with regard to one branch, why not also with regard to any other relative to the settlement and admission of a minister, whether he be presented by the patron, or by the heritors and elders? 3. Suppose the Court of Session had affirmed the Presbytery's sentence, they could not thereupon proceed to the settlement of Mr. Lindsay; nor, supposing their Lordships had differed from the Presbytery, would that have authorised them to review their own sentence, appointing a moderation at large, and to limit it to Mr. Dickson alone: in either case the Presbytery behoved still to remain subject to the Synod or Assembly, before whom Belton had carried the cause by an appeal, and would be obliged to comply with their decisions, however much the ecclesiastic courts might differ in judgment from the civil.—*Ans.* The patronage of a church is a civil right of property, and, as such, is possessed by laicks, and daily conveyed from hand to hand. In this view, like all other rights of property, it falls totally to be cognosced by the civil courts. The Lords of Session have done no more in this case, than determined, that the civil right of presenting to the vacant charge of Dunse is now vested in Belton, and have not at all interfered with the Church in the settlement of the parish; for by this decree the Church is certainly put under no greater restraint, than it would have been if Belton had produced an unexceptionable right of patronage before the Presbytery; and the Presbytery have the less reason to object to the decree, that they themselves were parties to it, and proponed all the objections they could find against it, which cer-

tainly makes it a *res judicata* with regard to them. The only view of the decree was, to point out some meith in law-points to the Church-judicatures; and Belton deserves the thanks of the Church, for taking this step in order to clear up law-points, which might have been very dubious to its judicatures, and in which they might have innocently erred. Besides, it may have one other good effect, by deterring any person from accepting of this benefice, other than the presentee; seeing none other will have a legal right to it; as was determined by the Lords of Session *anno* 1735, in the case of Mr. Patrick Maxton against George Moncrief of Reidie, where the court found, "That the statute 1592 intitles the patron to retain the benefice, in case the Presbytery or other Church-judicature, have refused to admit a qualified person;" although, after the date of this interlocutor, the Lords sustained an objection to the patron's rights.

*Obj.* The presentee is disqualified by the Acts 1, and 5, Geo. I. requiring every person, before he be licensed, or admitted to preach, to qualify.—*Ans.* The intention of the law is sufficiently answered, by qualifying before ordination; and many valuable members of the Church have omitted to qualify till they have been presented to a benefice. Besides, the penalty in the Act 5, Geo. I. is six months' imprisonment, and being rendered incapable to enjoy a benefice for a year after the oaths shall be taken; but the license is not forfeited, nor the settlement annulled. Arguments were likewise pled in answer to this objection, drawn from the act of indemnity which followed on the Rebellion of 1745.

The callers of Mr. Lindsay made the numbers on their side to be seventeen heritors, eight elders, and above 300 heads of families. A view of the concurrence on both sides, with a list of the heritors, and the valued rent of each, was exhibited for Belton. This made the numbers for Mr. Dickson, to be twenty-two heritors, two elders, and 150 feuers, tenants, and heads of families; and for Mr. Lindsay, about fourteen heritors, nine elders, and 250 heads of families; and the valuations of the heritors who were for Mr. Dickson, £10,621 12s. 3½d.; and of those for Mr. Lindsay, £255, 3s. 11½d. *i. e.* less than a 46th part.

This case came before the Assembly on the 16th of May.



The Synod's reference and Belton's appeal being both read, the cause was taken up on the footing of the reference. After parties were heard and members had reasoned at great length, the question was put, Whether to appoint a moderation to the presentee alone, or a moderation at large? and it carried for the former. Thereupon the Assembly appointed the Presbytery of Dunse to moderate in a call for Mr. Adam Dickson alone, betwixt and the 1st of August next.

The Presbytery, however, had appealed against the decree of declarator of the Court of Session to the House of Peers, who, on the 28th March, 1750, gave the following judgment\* :—

“It is declared by the Lords Spiritual and Temporal, in Parliament assembled, that his Majesty's Advocate for Scotland ought to have been made a party in the action of declarator brought in this cause; and therefore ordered and adjudged, that the several interlocutors complained of in said petition, be *reversed*: and it is hereby further ordered, That the respondent do make his Majesty's Advocate a party defender in this process, and also be at liberty to bring such other parties before the court as he shall be advised; but this order to be without prejudice to any exception or objection, which may properly be taken or made to the jurisdiction of the Court of Session, touching any of the matters in question in this case.”

But after the appeal had been lodged, the defect upon which the above reversal is founded (*viz.*, the King's Advocate not having been called as a party) was supplied by a decree of declarator† of Hay of Belton's right, obtained before the Court of Session, *against the officers of state, the heritors of the parish, and all others having interest*; and that decree was not appealed from.

This long-litigated case was brought to a final issue by the Assembly of 1750, who (on the 18th May), without a vote, “sustained Mr. Dickson's call, and appointed the

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\* See *Craigie and Stewart's Reports of Decisions in the House of Lords*, p. 478.

† It is rather singular, that neither Mr. Dunlop, in his book on Parochial Law (pp. 226, 308), nor any of the Counsel or Judges in the Auchterarder Case, seem to have been aware of the above fact. My authority is the *Scots Magazine* for 1750, pp. 150, 200. It is important to observe, however, that the House of Peers reserved the question of the Court of Session's jurisdiction.

Presbytery of Dunse to proceed with all convenient speed to his trials and settlement, so as his ordination and admission to that parish be completed on or before the 28th September."

The other business transacted by this Assembly was as follows:—

Act appointing Presbyteries to hold visitations for settling *parochial schools*, especially in the Highlands.\*

Congratulatory address to his Majesty, upon occasion of the *general peace*.—[Secured by the treaty of Aix-la-Chapelle, 18th Oct. (N.S.) 1748.]

The committee for overtures transmitted to the Assembly their opinion concerning the overture with respect to the *translations* and *paraphrases* of sacred scripture, and the Assembly considering that amendments have been proposed by several Presbyteries, but that by far the greatest part of them have as yet sent up no opinion; and *it being represented that, in the confusions of the late Rebellion, many Presbyteries had lost the copies which had been sent them*, the General Assembly do again remit this matter to the committee named for the same purpose by preceding Assemblies, and do instruct them to consider the amendments which have been offered, and to admit such of them as they judge proper and material, and to cause print a new impression of the collections so amended, and send copies of the same to the several Presbyteries, who are hereby appointed to send up their opinion to the next General Assembly.

The committee for overtures brought in a report, that there had been laid before them overtures from three Synods, concerning the *more frequent celebration of the Lord's Supper*,† and proposed the Assembly should ap-

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\* This Act was passed in consequence of a representation from the Society for Propagating Christian Knowledge, complaining that several Highland Presbyteries, instead of taking the proper steps for establishing *parish schools*, "seemed totally to depend upon the *charity schools* of the Society"—and threatening, that unless this were remedied, the Society would withdraw their schools, "which were never meant to supersede any mean of instruction whatever, far less *a mean established by law*."

† One of these Synods was the Synod of Glasgow and Ayr, on a proposal from the Presbytery of Glasgow, in Oct. 1748. It bore, "that except in a few places, this sacrament is administered only once a-year in each parish, and in some parishes but once in two years;—that the manner in which it is commonly administered greatly obstructs the frequent administration of it;

point a special committee to prepare a draught of an overture, to be transmitted to Presbyteries for their opinion thereupon. The General Assembly having heard the said report, do recommend to Presbyteries to send up their opinion upon this subject to the next General Assembly.

and that the number of sermons upon such occasions, and the many parishes thereby laid vacant on the Lord's-day, are accompanied with several great inconveniences, if not also, too often, with *scandalous profanations* of that holy day. The overture therefore proposes, That the Lord's Supper be administered at least four times a-year in every parish, and on the same Sabbath in every parish of the same Presbytery; and that only one day in the preceding week, either Friday or Saturday, be set apart for preparation."—An anonymous writer of the period (*Scots Mag.* 1749, p. 126) says, that trifling, or at least irrelevant reasons, made the Sacrament often be put off to a seventh or eighth year. He adds, "I have at times heard ministers honestly own the expense of administering as the reason of their dispensing this ordinance no oftener; and it is to be feared, that this is for most part the true reason of their remissness." The originator of the present movement was probably Dr. *John Erskine*, who was at this period minister of Kirkintilloch, in the Presbytery of Glasgow, and who published in 1749 his "Essay intended to promote the more frequent dispensation of the Lord's Supper." The following are the remarks of Sir Henry Moncrieff on the subject:—"There were certainly strong reasons for the proposal which was the object of this essay, as well as for many of the alterations which were suggested to render it practicable. The subject had been under the consideration of the Presbytery of Edinburgh in 1720, who, without going as far as the overture from the Synod of Glasgow and Ayr, had abridged the number of sermons, and made an arrangement by which the Lord's Supper was to be dispensed in one or more of the congregations within the bounds of the Presbytery, in every month of the year. But no change had hitherto been made in other districts of Scotland, where, because the inconvenience attending the common practice was obviously greater, there was more occasion for reformation. Dr. Erskine discussed this subject with singular ability and learning, and his essay is, in point of execution, equal to any one of his other publications. He states, from the original authorities, the doctrine and practice of the early ages of the Church; the decisions of Councils, and the opinions of the Fathers on the subject, with the practice of the reformers and of the reformed churches down to the latest period, as far as he had been able to procure them. He then represents the practice introduced into Scotland, immediately after the Reformation, and the circumstances in the times of persecution, from which a different mode was adopted. He points out the inconvenience attending the multiplicity of sermons which had been first brought into practice, when the Lord's Supper was dispensed under the rod of persecution, and which was still continued when the circumstances were no more the same; and he shows how unnecessary and inexpedient the same number of sermons becomes in different times,—placing, in a very striking and forcible light, the arguments which then pressed on his own mind in support of the Synodical overture. The number of sermons might perhaps be more abridged than they have yet been, without any material injury to practical religion; and the Lord's Supper might, with considerable advantage, be still more frequently dispensed than it is at present. But it is also possible, that, on this subject, a change in the habits of the people might be carried farther than either prudence or expediency would warrant; and, in the circumstances of the Scottish Church, much farther than would be justified, either by experience or authority. Notwithstanding the prac-

It is recommended to the Presbyteries of North Isles, Alford and Strathbogie, in time coming, to choose *elders* as well as ministers, Commissioners to the General Assembly.

The sentence of the Synod of Moray, refusing the transportation of Mr. Patrick Grant, minister at Calder, to be minister of *Urray*, in the Presbytery of Dingwall, reversed; the said Mr. Patrick Grant transported from his charge at Calder, to be minister of the said parish of *Urray*; and the Presbytery of Dingwall appointed to admit him to the said parish of *Urray*, betwixt and the first of August next; and the Presbytery of Inverness appointed to declare the church of Calder vacant, the first Sabbath after Mr. Grant shall be admitted to *Urray*.

The sentence of the Synod of Glasgow and Ayr, finding that Mr. Lockhart of Lee, who had given his presentation to Mr. Robert Dick, probationer, to be minister of *Lanark*,\* has the preferable right to that claimed by the town of *Lanark*, who had presented Mr. James Gray, minister at *Rothies*, in whose favour also a presentation from the crown was granted, to be minister of the said town and parish of *Lanark*, affirmed; and it is remitted to the Presbytery of *Lanark* to consider the import of the crown's right, and to proceed further to the settlement of the said parish, according to the rules of this Church.

The Presbytery of Perth appointed to moderate in a call to Mr. James Oswald, minister at *Dunnet*, alone, to be minister of the parish of *Methven*, he having accepted of a presentation thereto from David Smith of *Methven*, patron of the said parish; and the Commission are empowered, at their meeting in November, or any subse-

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tice of the foreign churches, and its coincidence with Dr. Erskine's original opinion, it appears more than probable, that if he had been to write on the same subject fifty years later, though he would have maintained the substance of the same doctrine, he would not have gone quite so far in suggesting remedies, as the overture from the Synod of Glasgow did in 1748-49. He republished his essay, indeed, among his theological dissertations, without alteration, in 1764. But when it was edited again, without his knowledge, a short time before his death, there is some reason to believe, that he was not satisfied with that proceeding, and that he would not then have republished it himself, without many alterations." A pamphlet on the same side appeared by Mr. Thomas Randall, then of *Inchture*, afterwards of *Stirling* (father of the late Dr. Davidson). At a later period, Dr. Snodgrass of *Paisley* succeeded in introducing into that town a plan of more frequent Communion, with fewer preaching days.

\* For the conclusion of this important case, see under the next year.



quent meeting, to take in, cognosce and finally determine in any reference or appeal that shall regularly be brought before them, relative to that settlement.—[See under next year.]

The sentence of the Synod of Fife, affirming a judgment of the Presbytery of Kirkaldy, refusing to grant a limited moderation of a call to Mr. Niel Beton, probationer, presented by the crown to be minister of the parish of *Kennoway*, reversed, and the said Presbytery appointed to proceed to the moderation of a call to the said Mr. Niel Beton, alone, and that betwixt and the first of August next.

Reference to the Commission to cognosce and finally determine in a process carried on before the Synod of Perth and Stirling, against Mr. *Gilbert Man*\* minister at Monedie, and by them referred to this Assembly.

The overture concerning *processes against probationers* ordered to be transmitted to such Presbyteries as have sent up no reports thereon.

A reference from the Synod of Angus and Mearns of a cause brought before them, by appeal from a sentence of the Presbytery of Forfar, concurring with a presentation to Mr. Robert Traill to be minister of *Rescobie*, notwithstanding of a call given to Mr. James Hunter, probationer, to be minister thereof, heard, and the said Presbytery appointed to proceed to the trials and settlement of the said Mr. Robert Traill to be minister of Rescobie, with all convenient dispatch, according to the rules of this Church.

A sentence of the Synod of Lothian and Tweeddale, appointing the Presbytery of Linlithgow to proceed to the trials and settlement of Mr. James Watson, probationer, to be minister of the parish of *Torphichen*, who has a presentation from the Right Hon. the Lord Torphichen, patron, and a call by several heritors and others of that parish, affirmed, and the said Presbytery appointed to proceed to the trials and settlement of the said Mr. James Watson, to be minister of the parish of Torphichen, with all convenient dispatch, according to the rules of this Church.†

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\* See last year at p. 115. The case was not finally disposed of till the meeting of the Commission, March 15, 1750, when Mr. Man was rebuked by the Moderator.

† A very full account of this case (which also came before the two next Assemblies) will be found in the Commons' Report on Church-Patronage

An appeal of David Haggart of Cairnmuir, from a sentence of the Synod of Perth and Stirling, finding him guilty of a relapse in adultery with Babie M<sup>c</sup>William, and likewise guilty of adultery with Margaret Haggart; and also finding him guilty of gross prevarication, and of several artful and sinful attempts to hinder the evidences from declaring the truth; and therefore appointing him to be laid under the sentence of the greater excommunication, referred to the Commission.

The Procurator and Agents for the Church appointed to carry on the necessary processes, at the public charge, for removing the grievances which the ministers of the Presbytery of Gairloch labour under, by *want of churches and manses*, but that the expense be replaced out of what shall be recovered at the issue of such processes.

The Moderator appointed to write to the Right Hon. the Lord High Chancellor of Great Britain, the Right Hon. the Speaker of the House of Commons, and to his Majesty's principal Secretaries of State, returning them the thanks of the Assembly for their countenance and favour in passing the bill in Parliament for explaining and amending the Act for establishing *the Widows' Fund*.

The proposal for distinguishing the respect, in the *calling of ministers*, due to those who express a suitable regard to religion and gospel ordinances, and excluding those of a contrary character from voting in such elections, again referred to the Commission.

An amended overture about *licensing probationers* transmitted to Presbyteries.

The Synod-book of Argyle attested, with a recommendation, that, when they receive any letters from the Assembly or Commission, they cause engross the same at full length, or an abstract thereof in their register.

The Assembly rose May 22d.\*

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(Appendix, p. 39), as extracted from the Presbytery Records. The vacancy occurred on the 7th August, 1747, by the death of the Rev. John Bonar—one of the twelve *Marrow-men*. Lord Torphichen, the patron, proposed a leet of five, but many in the parish petitioned to have Mr. James Turnbull, preacher at Methven, added to it, which the Presbytery, by a majority, refused to allow. When the call was moderated in, two heritors voted for Mr. William Gilmour, and twenty-four for Mr. James Watson (the number in the parish being sixty), but no elder. The Presbytery referred the case to the Synod, who sustained Mr. Watson's call.

\* The practice of mentioning in the printed Acts the psalm sung, &c. at the close of the Assembly, was discontinued after 1748.

1750.

THE General Assembly met on the 10th of May, and chose Mr. Robert Paton, minister at Renfrew, Moderator. The Earl of Leven was High Commissioner.

On the 12th, the following report was laid before them:

*The report of the committee appointed by the last General Assembly to have under consideration what concerns the augmentation of ministers' stipends.*

The committee, according to the instructions and powers given them by the last General Assembly, sent letters to all the Presbyteries in Scotland, with proper queries to the several ministers relating to the facts which the committee were directed to inquire into, and such other things as appeared to them of consequence for answering the Assembly's design. In which letters they also desired Presbyteries to apply to the nobility and gentry within their bounds, in the most proper and respectful manner, in order to obtain their concurrence in promoting any proper plan that might be formed for the relief of such ministers as are not sufficiently provided.

To assist them further in their inquiry into the proper facts, they procured from Mr. Joseph Williamson, Clerk to the Commission of Teinds, an attested abstract of the stipends of 343 parishes, taken from the records of that court.

By a calculation\* of the necessary annual expense of a minister's family, it appeared to the committee that ten chalders of victual, oatmeal, and bear, or the value of it in money, according to the usual conversion in the sale of lands in the parts of the country where the respective parishes lie, is no more than a moderate provision for ministers all over Scotland; and therefore, they give it as their opinion, That the above-mentioned quantity of victual, or the value of it in money, according to the usual conversions in the several parts of the country, is reasonable to be proposed as the *minimum* of ministers' stipends

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\* The following was the calculation made:—

*Calculation, shewing, at a medium, the necessary annual expense of a minister's family on the south side of the Forth; in which it is sup-*

all over Scotland ;—that the proposed augmentation should arise out of the tithes, the law having considered these as the proper fund for augmentations ; and that where the tithes are exhausted, or where the parishes are very small, it ought to be considered how far, in such cases, the augmenting of stipends may be effectuated by annexations ; and, in the meantime, some funds, such as the bishops' rents, &c. (for which an humble application may be made to his Majesty), might be applied for the support of the present incumbents, until such annexations take place.

It being represented to the committee, That the enlarging of the present glebes would be of great consequence, and the most beneficial method of augmenting ministers' stipends, at least in part, they propose, that, in case of obtaining any addition to the legal glebes, a pro-

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*posed, that ministers, one with another, have three children, and that they are obliged to keep at least two women servants, and one man.*

1. To the expense of maintaining the three servants <i>per annum</i> , at £3, 12s. each, . . . . .	£10 16 0
2. To the wages of the two women-servants, at 16s. 8d. each, every half-year, and £1, 10s. for the half-year's wages of the man-servant, which is <i>per annum</i> , . . . . .	6 6 8
3. To the maintenance of the minister, his wife, and three children, at no more than £1, 12s. 6d. <i>per quarter</i> each, which is <i>per annum</i> , . . . . .	32 10 0
4. For clothing each of the above five, one with another, £3 <i>per annum</i> , . . . . .	15 0 0
5. To coals, or other fuel, candle, soap, and other small necessities, yearly, . . . . .	8 0 0
6. To advice of physicians, and for medicines, yearly, . . . . .	1 10 0
7. To the annual attendance on meetings of Presbyteries and Synods, and attendance on General Assemblies and their Comissions, one year with another, . . . . .	3 10 0
8. For buying books, one year with another, . . . . .	2 0 0
9. To the education of three children, supposed on the whole to cost £30 each, that is, in all £90 ; and consequently (seeing it appears from the calculations relative to the widows' scheme, that ministers, one with another, live about thirty years in the ministry), the childrens' education may be computed, <i>per annum</i> , at . . . . .	3 0 0
10. To tear and wear of household furniture, bed and table linen, &c. <i>per annum</i> , . . . . .	1 0 0
	<hr/>
	£83 12 8

N.B. Several other articles of necessary expense might have been mentioned, such as, charities public and private, expense of births and burials, putting children to apprenticeships, and enabling them to do for themselves, which will vastly more than overbalance any advantage that may be supposed to arise from the present glebes, and any small profit of servant's work, when not employed about the necessary business of the family.



portional deduction should be made from the ten chalders of victual, or its value.\*

The committee give it as their opinion, that the things now proposed, in order to the augmentation of ministers' stipends, cannot be made effectual without the aid of an Act of Parliament; and submit it to the wisdom of the General Assembly, if it may not be proper to apply to Parliament for that purpose, the next session thereof that shall be held after the meeting of this Assembly?

It being represented by the Synod of Orkney, and with respect to the Presbytery of Zetland, That the victual in these countries is far inferior in value to what it is in neighbouring shires, at the same time that the rate of living is equally high,—the committee do therefore give it as their opinion, That the *minimum* of stipends in Orkney and Zetland should be a quantity of victual equal in value to ten chalders of victual in the shire of Sutherland, or the value in money of such a quantity of victual. And it being represented, That in Merse and Teviotdale, the price of a chalder of victual, according to the usual conversion, is not equal to what it is in the Lothians, at the same time that living is equally dear; therefore the committee proposes, that the *minimum* of stipends in Merse and Teviotdale should be ten chalders of victual, or its value, according to the usual conversion, together with as much money as to make up the whole to £1000 Scots, or £83 6s. 8d. sterling.

The committee further proposes, in order to lessen the expenses of processes for augmentations, That, instead of the present way of summoning heritors in these cases, the charges of which are often very considerable, especially in remote places†, the method of sisting them might be, summoning them at the church door by a messenger, and the

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\* By an Act of Parliament, in 1617, the *minimum* had been fixed at 5 chalders or 500 merks, but in 1633 it was raised to 8 chalders or 800 merks.

† In the year 1724, the Presbytery of Zetland consulted Mr Dundas of Philpston, then Procurator for the Church, What it was proper for them to do when heritors take up the minister's tithes from the tenants at their own hands (which is a case still subsisting)? In answer, Philpston advised them to raise an inhibition of teinds, and cause execute the same; and if, after this, they continued to intromit, &c. to pursue a spuilzie of teinds. But it will be found, that, in such a case, the cure will be worse than the disease,

minister's writing to non-residing heritors,—the last of which should be instructed by a certificate under the minister's hand, according to the present practice in the case of repairing churches and manses.

The committee, considering also the hardships and expense to which many ministers are subjected from the dilatory payment of their stipends, are of opinion, that it might be a considerable remedy to the same grievance, if a law was obtained, enacting, That, in case the stipend, or any part of it, shall not be paid at the first term of Whitsunday or Martinmas after it becomes payable, then it shall bear interest from the term of payment.

The committee do further report, That, in return to the letters and queries sent to the Presbyteries, they have received reports concerning 780 benefices, and other facts respecting the parishes these belong to ; from which, together with the account of 53 stipends more, contained in the attested abstract from the records of the Commission of Teinds, they have caused insert into a book, which they had ordered to be prepared for that purpose, a state of 833 benefices, and other facts relating to these, reduced to proper distinct columns. And from the said scheme-book, the committee have caused draw out an abstract of the principal facts, which is herewith produced. From whence it appears, that, of those 833 benefices, separating what is allowed for communion-elements, there is

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as will be evident, if it is considered,—1. That the inhibition must be sent for from Edinburgh ; that is, upwards of 300 miles distance from some ministers in that country, and through a sea not ordinarily crossed save in summer.—2. That this inhibition must be intimate by a messenger, whereof there is but one in that country, and he twenty, thirty, or more miles distant from some ministers' houses.—3. That it must be intimate at every kirk door of the minister's parish, on a Sabbath when public worship is at the kirk.—4. That some ministers have four kirks to preach at, one six miles, another nine, and a third twenty-two miles from his residence ; and, therefore, before the messenger can publish the inhibition at all these kirks, he must remain at least four Sabbaths in that minister's charge.—5. That the inhibition must also be intimate to every heritor, however distant ; yea, and to each head of a family, as every householder pays his part of the stipend ; and perhaps there are upwards of 200 families in the minister's charge.—6. After all this, suppose a process of spuilzie be found necessary, where shall the poor minister, who (by supposition) has his teinds kept back from him, have wherewithal to subsist his family, and carry on such a tedious expensive process ?"—*Memorial in favour of the Augmentation-Scheme, by William Steel of Waygateshaw, Minister at Dalserf. Edin. 1750.*

		£		£
1	under	25		
3*		25		30
12		30		35
25		35		40
106		40		45
126		45		50
84		50		55
119		55		60
94		60		65
119		65		70
38	above	70		75
27		75		80
22		80		85
7		85		90
9		90		95
12		95		100
3		100		105
2		105		110
8		110		115
16	of	138 : 17 : 9 $\frac{2}{3}$		

and not higher than

and that the total of these benefices, deducing what is upon the whole allowed for communion-elements, amounts to £50,266 15s. 5 $\frac{1}{2}$ d.; and in these are included stipends that are not paid out of the tithes. And it is to be observed, that 65 are under the present legal *minimum* of 800 merks, or £44 8s. 10 $\frac{2}{3}$ d. sterling; and 182 have no allowance for communion-elements.

The committee further report, That, with respect to glebes and grass, they have only received reports relating to 774 benefices, whereof 62 have no allowance either for glebes or grass; 255 have glebes, but no grass, or allowance for it; and 457 have both glebes and grass; but severals are under the legal, as appears more particularly from the abstract. And these two numbers who have either glebes or grass, amount to 712; and the total value of their glebes, including the grass, is computed, according to the reports, to be in all £2855 11s. 8d. It follows that each is worth, at a medium, £4. 2 $\frac{7}{12}$ d.

\* Mr. Steel, in his *Memorial*, gives a list of small stipends, among which are, Culsalmond, in Garioch Presbytery, of £30, 11s. 1d.; Cumray, in Irvine Presbytery, of £30, 2s. 11d.; Coll, in Mull Presbytery, of £27, 15s. 6d.; and Ruthven, in Meigle Presbytery, of £24, 10s.

And they further report, That, by a calculation formed upon the account of the tithes of 324 parishes contained in the attested abstract before mentioned, it appears that the tithes in Scotland, not affected by ministers' stipends, will amount to near £60,000 sterling; and, though the state of the tithes taken from that abstract may not be quite accurate, yet these inaccuracies will have but very small influence on the general conclusion.

Upon the whole, The plan of the projected augmentations which the committee offer to the General Assembly is,—1. To have the *minimum* of stipends raised to what is above proposed; that is to say, that the *minimum* all over Scotland (except in Orkney and Zetland, and the shires of Merse and Teviotdale, where the circumstances are somewhat special) shall be ten chalders of victual, or its value, according to the usual conversions; that in Orkney and Zetland, it shall be a quantity of victual equal in value to ten chalders in the shire of Sutherland, or the value in money of such a quantity of victual; and that in Merse and Teviotdale, it shall be ten chalders, or its value in money, together with as much money as to make up the whole stipend to £1000 Scots, or £83 6s. 8d. sterling. 2. That, in case of obtaining any addition to the legal glebes, a proportional deduction shall be made from the ten chalders of victual, or its value.—3. That, in processes for augmentations, the law might direct the method of citing heritors to be, summoning them at the church door by a messenger, and the minister's writing to non-residing heritors,—the last of which shall be instructed by a certificate under the minister's hand.—4. That there may be a law, enacting, That in case the stipend, or any part of it, shall not be paid at the first term of Whitsunday or Martinmas after it becomes payable, then it shall bear interest from the term of payment.—And the question being proposed, and reasoned upon, Whether or not the committee should move to the General Assembly to make immediate application to the Legislature for the purposes above-mentioned? the same being put to the vote, it carried by a majority in the affirmative. And, accordingly, the committee, considering the reports they have got in answer to the queries sent to Presbyteries, which give them a clearer and fuller view of the circumstances of ministers of this Church, and the necessity of the proposed



augmentation, give it as their opinion to the General Assembly, That they should make immediate application to Parliament for the purposes above set forth, the first session thereof that shall be held after the meeting of this Assembly. Whereupon Messrs. Alex. Webster, James Stevenson, James Lindsay, and George Wishart, craved it might be marked, that they voted against this opinion of the committee for an immediate application.—Signed in name of the committee, by

PATRICK CUMING, *Modr.*

GEORGE WISHART, *Cls. Eccl. Scot.*

This Report was taken into consideration by the Assembly on the 14th. After long reasoning, it was agreed, without a vote, (on the motion of Dundas of Arniston, Lord President,) to apply to the Legislature next session of Parliament, by representing, in general, that many ministers of the Church of Scotland are under great hardships by reason of the smallness of their stipends, and praying for such relief as shall to the wisdom of Parliament seem meet. [The debate lasted from ten noon till eight at night.] The Moderator, Principal Campbell of Glasgow, Professor Cuming, Messrs. Alexander MacLagan, William Steel at Dalserf, William Steel at Sorn, Robert Wallace, and James Lindsay, ministers, and the Marquis of Lothian, the Lords President, Advocate, Justice-Clerk, Drummorie, and Shewalton, Mr. Robert Dundas, and Mr. David Dalrymple, Ruling Elders, were appointed a committee to prepare a plan of the method of conducting the affair, and to report.

This committee gave in their report to the Assembly on the 17th; and all the articles of it were approved of, except the last, viz. “That in the application to Parliament there should be no proposal made as to any alteration of the *minimum* of stipend;” in place of which it was proposed to insert the following clause, viz. “Most humbly to pray for relief in the premises, and such further relief as to his Majesty and the two houses of Parliament shall, in their great wisdom seem meet. Upon the question put, Which to insert? it carried for the latter by a great majority. A preamble was then proposed and agreed to; and the act and resolution passed as follows:—

“The General Assembly, considering the distressed circumstances of many ministers of this Church, arising from the smallness of their stipends, the expense of processes for augmentations, and the dilatory payment of stipends, do resolve on an humble application to be made to the King and Parliament for the following purposes:—That in raising of summonses for modification, locality, or augmentation of stipends, instead of the usual method of summoning by a messenger, it shall be sufficient, that a general citation be made by the parish-clerk from his desk upon a Lord’s-day immediately after divine service in the forenoon; and that letters be wrote by the Moderator of the Presbytery to the absent heritors, except such as are forth of the kingdom, who are to be summoned by a messenger at the market-cross of Edinburgh, pier and shore of Leith.—That it shall be in the power of the Moderator, with consent of the Presbytery, to pursue for modification, locality, or augmentation, whether there be a minister settled in the parish, or the parish be vacant.—That ministers’ stipends, if not paid within the year, shall bear interest from the first half-year after they become due.—That power be given to the Commission of Teinds, to suppress parishes which they find not proper to be continued separate parishes, and to annex them to one or more of the adjacent parishes.—That the Commission have likewise a power to alter the divisions of parishes, on a view to divide them as they see cause.—The General Assembly instructs those to be commissioned by them, most humbly to pray for relief in the premises, and for such further relief as to his Majesty and the two houses of Parliament shall, in their great wisdom seem meet.”—And it was declared by the Moderator from the chair, to be the mind of the Assembly, that by this last clause it was understood, that the Commissioners to Parliament might apply for an increase of the *minimum*.

On the Assembly’s thus rejecting the last article of the committee’s report, and substituting in its stead the clause above inserted, the Lord Napier entered his dissent, craving he might be allowed to give in the reasons of it in due time. To which several hon. members adhered.

Then the Assembly resolved, to send three ministers and one elder, as their Commissioners, to apply in their name to the King and Parliament, for the purposes afore-

mentioned, viz. Mr. Robert Paton, minister at Renfrew, Moderator of the Assembly; Mr. Patrick Cuming, Professor of Church-history in the University of Edinburgh, and one of the ministers of the city; Mr. William Steel, minister at Sorn; and Mr. David Dalrymple, Advocate, and Procurator for the Church: and they recommended to Mr. William Steel, minister at Dalserf, [who had published a memorial in favour of the scheme] to go along with the Commissioners, and give them his assistance.

Next day the following gentlemen were appointed a committee to correspond with the Commissioners aforesaid, and to give them advice and direction, viz. Professors Gowdie, Pollock, and Shaw; Messrs. Alexander Mac-lagan at Little-Dunkeld, Andrew Dickson at Aberladie, Robert Baird at Dunlop, John Allan at Row, Theodore Gordon at Kinnethmont, Alexander Geddes at Birsay, William Craig at Glasgow, Robert Thomson at Killeen, Robert Monteith at Longformacus, Duncan Macfarlan at Drymen, James Buchan at Walls, John Squyre at Forress, William Somerville at Hawick, James Allan at Eyemouth, James Nasmyth at Dalmenie, Peter Grant at Urray, Robert Dalgleish at Linlithgow, William Thom at Govan, Colin Campbell at Eaglesham, John Pinkerton at Dalziel, Thomas Mutter at Lesswalt, Nathaniel M'Kie at Crossmichael, James Lorimer at Mouswald, Alexander Mackay at Dunoon, and Harry Spence at Wemyss, ministers; and Lord Drummorie, the Lord Provost of Edinburgh, the Master of Ross, Solicitor Haldane, Mr. Joseph Williamson, Mr. Robert Dalrymple, Dean of Guild Montgomery, Mr. William Kier, Mr. White of Stockbrigs, Commissioner Campbell, Mr. Andrew Pringle, Mr. Campbell of Lochlands, Mr. Melvil of Kirkmichael, Mr. Alex. Macmillan, and Mr. Archibald Campbell, ruling elders;—of whom, five are to be a quorum; such of them as reside in or near Edinburgh, are to correspond with those who live at a distance from that city, that they may be the better enabled to give advice; the Commissioners are to direct their letters of correspondence to Professor Gowdie; and he is to call a meeting of the committee as often as it shall be necessary.

On the 21st, Mr. Matthew Stewart, Professor of Mathematics in the University of Edinburgh, was added to the committee of correspondents; this committee was

appointed to revise the reports relating to stipends and parishes, which have come up since the abstract produced by the committee of last Assembly was prepared, or which should hereafter come up, and to see them stated in the scheme-book; the Commissioners were appointed to have their necessary charges and disbursements defrayed out of the Church's public funds, and authorised to call for all authentic papers and reports upon the subject of the augmentation, which have been laid before the committee of the last Assembly, or which may hereafter be transmitted into the Clerk's hands; and all Presbyteries were ordered to address noblemen and gentlemen within their bounds, in the most respectful manner, for their countenance and concurrence in promoting the success of this application.

In the evening of this day, which was the last sederunt of the Assembly, a paper, entitled, *Reasons of Dissent, entered by Lord Napier, and adhered to by several others, &c.* was presented, and read. It was signed as follows:—Napier, (Lord); Ro. Dundas, (Lord President); William Grant, (Lord Advocate); Ch. Areskine, (Lord Justice-Clerk); Patrick Boyle, (Lord Shewalton); G. Preston, (Sir George, of Valleyfield); Gilb. Elliot, (of Minto, junior); Jo. Stuart, (of Allinbank, junior); George Sinclair, (of Ulbster); Will. Binning, (Advocate); Ja. Ker (of Morison); Ro. Dundas, (of Arniston, junior); George Peter, (of Chapel); James Dundas, (of Philpston); Ja. Leslie, (Commissary). Besides these fifteen members, other five adhered to the dissent when entered, viz. Messrs. James Erskine, jun. Advocate, William Kirkpatrick, one of the Principal Clerks of Session, Alexander Hamilton of Pencaitland, Archibald Campbell of Knockbuie, and James Carnegie of Finhaven. The Assembly named the Moderator, Professors Cuming, Shaw, and Pollock, Messrs. Alex. MacLagan, William Steel at Sorn, Robert Baird, and John Allan, ministers; and Lord Drummorie, Messrs. Andrew Pringle, Joseph Williamson, Campbell of Lochlands, and the Procurator, ruling elders, a committee to draw up answers to these reasons of dissent; and ordered both to lie *in retentis*.\*

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\* To explain the extraordinary keenness which was displayed on both sides in this matter, it is proper to state, that from the period when this Augmentation-scheme was first mooted, it had met with great opposition from the landed interest (especially the Jacobites); and the freeholders of



Having detailed the proceedings on this subject, we shall now give an account of the other affairs which came before the Assembly.

On the 15th, a letter in Latin from a Protestant church at Breslau in Silesia was committed to the members from the Presbytery of Edinburgh. On their report, the Assembly, May 19, passed an Act appointing a collection to be made for building and endowing a church and school for this suffering community at the doors of all the parish-churches in Scotland on the third Lord's-day of November next.

A complaint was presented, May 16, against the Presbytery of Perth, for refusing to sustain a call moderated by appointment of last Assembly to Mr. James Oswald, minister at Dunnet in Caithness, to be minister of *Methven*, in virtue of a presentation from David Smith of Methven, Esq. and a concurrence of some heritors, &c.; and for persisting in such refusal notwithstanding a sentence of the Commission. Another complaint was presented, in name of Mr. John Moncrief of Tippermalloch, and others, heritors and elders of the parish aforesaid, against the sentences of the Commission in this affair. The Assembly, without a vote, dismissed the complaint against the Commission, and peremptorily ordained the Presbytery of Perth to admit Mr. Oswald as minister of Methven on or before the 10th of July next, with certification of their incurring very high censure in case of disobedience.

Immediately after passing this judgment, the Assembly, upon a narrative, that there occur frequent instances of

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almost every county in Scotland passed resolutions against it. When it came to be discussed in this Assembly on the 14th May, after a nine hours debate, the Lord President made the *healing* motion above reported, but which proved in the end the source of greater animosity, for each party interpreted it as favourable to their own views. The chief point in debate had been about *the raising of the minimum*. The committee that was appointed in consequence of the Lord President's motion, contained, out of sixteen members, no fewer than eight elders, who were all connected with the landed interest, besides one minister at least (Mr. James Lindsay of Dumbarrie) who, as a *popular* man, was lukewarm, if not hostile, to the scheme, as emanating rather from the *moderate* interest. This committee, as might have been expected, reported against any application to Parliament to raise the *minimum*, and when the Assembly rejected that part of their report, the opposition, headed by the Lord President, set themselves against the whole scheme; and hence the singular, but not very creditable, appearance of the Lord President as virtually a dissident from the *resolution which he himself had proposed and carried*. He subsequently took the chair at the meeting of the Mid-Lothian Freeholders to petition Parliament against it.

*Presbyteries disobeying the orders of the supreme court*, appointed the following members, a committee to consider of a proper method for remedying this evil, and for making the sentences of the Assembly and Commission effectual, viz. the Moderator, Principal Campbell of Glasgow, Professors Gowdie and Cuming, Mr. Wallace, the Marquis of Lothian, the Lords President, Advocate, and Drummore. This committee, however, did not get through the affair; and therefore the Assembly appointed their Commission, to prepare an overture, to be laid before next Assembly, for securing the execution of the sentences of Assemblies and Commissions; and empowered them, in case Presbyteries be disobedient to any of the sentences of this Assembly, to censure such Presbyteries.

The recommendation of last Assembly, that Presbyteries should send up their opinions concerning the *more frequent celebration of the Lord's supper*, was complied with by but few of them, and the opinions that came up were very different; therefore the Assembly, May 21, ordered the overture on the subject to be again transmitted to Presbyteries, that they may send their opinions on it to the next Assembly; and in the mean time recommended to ministers, to have that ordinance administered as often as the circumstances of their parishes can admit.

Upon a narrative, that the opinion of *the plurality of Presbyteries* is requisite before any public Acts can be passed, and that few Presbyteries had returned their opinions upon the overtures lately transmitted to them, the Assembly remitted it to the several Presbyteries, to have under consideration, and report to next Assembly, what may be proper to be done in such cases.

*Case of Lanark.*—As this case, which became famous in the annals of the Church, was this year finally disposed of by the Assembly, we shall here present a continuous view of it from the commencement to the close. In some of its leading features it resembles the case of Culross, reported under the preceding year.

On the parish of Lanark becoming vacant, in 1748, the patronage was claimed by Lockhart of Lee, by Lockhart of Carnwath, by the town of Lanark, and by the crown. Lockhart of Lee presented Mr. Robert Dick, probationer;

the crown and burgh both presented Mr. James Gray, minister of Rothes.

The predecessors of Lockhart of Lee had been infeft in the patronage in the year 1647. The last vacancy had occurred in 1708, when, patronage being abolished, they could not exercise the right of presentation; but they did then exercise without question or resistance the right to the vacant stipend which was reserved to patrons by the same Act (1690) which abolished patronage. It was not alleged, that since the period when they were infeft in the patronage, the crown, who now claimed it, had one act of possession to plead. The pretensions of Lockhart of Carnwath and the town of Lanark seemed still more groundless; and as the family of Lee and their authors were the only patrons whom the Presbytery of Lanark found on their record, that body in following out the remit of the Assembly, 1749, (see p. 155) preferred Mr. Dick's presentation; moderated in a call to him, sustained his call, and resolved to proceed to his trials and settlement as minister of Lanark.

From these sentences an appeal was taken to this Assembly, (1750) who, on the 15th May, affirmed them in every particular, and "appointed the Presbytery to proceed accordingly."

But in endeavouring to give effect to the Assembly's judgment, the Presbytery met with very great opposition from the Magistrates and town's-people of Lanark, who seem however to have been actuated more by hostility to the Lee family (arising out of local politics) than by any personal dislike to Mr. Dick. So strong was the ferment, that the Presbytery, after making various unsuccessful attempts to settle Mr. Dick, (in which they were thwarted by mob violence\*) referred the whole matter to the Synod of Glasgow and Ayr.

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\* On Sept. 16th (1750), when a minister went to serve the edict for Mr. Dick's ordination, he was not allowed to enter the church, the populace having riotously carried off the keys, and committed other excesses. Such was the violence of political feeling between the officers of state and the Lockharts, that the Lord Advocate (Mr. Grant, formerly Procurator for the Church) did not bring the rioters to justice, but left it to the private party. "On the 17th June, 1751, Robert Bell and Christopher Bannatyne, *present bailies of Lanark*, and three women and seven men, inhabitants of that town and parish, indicted, at the instance of John Lockhart of Lee, and of John and Allan Lockhart, elder and younger of Cleghorn, with concurrence of his Ma<sup>ty</sup>

The Synod met at Glasgow Oct. 2, entered next day on the settlement of Lanark, and unanimously agreed, to contribute their best endeavours in assisting the Presbytery to execute the sentence of the Assembly. After reasoning upon the most proper method, it was agreed, considering the opposition made to the Presbytery, at their former attempts, in proceeding to take any steps in this affair, and the reasons for apprehending the like opposition still, (which apprehension was confirmed by a letter sent the Synod by the magistrates of Lanark), that the Presbytery should ordain Mr. Dick at Glasgow, with the concurrence and under the inspection of the Synod; that a letter should be written to the magistrates of Lanark, intimating, that if they had any objections to Mr. Dick's life or doctrine, they might have an opportunity of making them at the Tron Church of Glasgow, next day, at four o'clock afternoon; and that Mr. Andrew Orr, Moderator of the Synod, who is a member of the Presbytery of Lanark, should preside at the ordination. As this method was unusual, the Synod caused to be inserted in their minutes the following reasons for it:—"1. The opposition to Mr. Dick is so far from being founded upon any dislike to himself, that they who are now his opposers, would formerly have had him take a presentation from them,

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jesty's Advocate, of being guilty, or art and part, of a variety of mobs and tumults, in order to hinder the settlement of Mr. Robert Dick, as minister of that parish, were brought before the Court of Justiciary, when, after a debate upon the relevancy, the Lords ordained informations *hinc inde* to be given in. On advising these, July 5, the court found, That Messrs. Lockhart of Cleghorn had no sufficient interest to carry on the process, but sustained the title of Mr. Lockhart of Lee to do it; and found the libel relevant to infer the pains of law, damages, and expenses. The trial proceeded on the 8th; and next day the jury returned their verdict, finding the libel against the two bailies, and three of the other seven men, not proven; but proven against the three women, and other three of the men; and finding it proven, That William Vessie joined with the mob that obstructed the tilling of the minister's glebe, and loosed the horses from the yoke. The Lords then assoilzied and dismissed the two bailies, and John Hastie, James Lyon, and William Corr. Sentence was pronounced against the other pannels on the 12th, by which Rebecca Giles, Martha Gray, and Jean Frisell, or Fraser, the three women, were ordained to be carried from the city-prison to the correction-house on the 15th, and confined there till the 11th of November next, and then to be dismissed. Allan Waygateshaw, James Wilson, and George Young, are to be banished Scotland for three years, and in case they return, to be whipped and again banished, and are allowed till the 1st of August to prepare for their departure; and William Vessie, in respect the charge against him is attended with less aggravating circumstances, is ordained to lie in prison till the 10th of August, and then to be set at liberty."



and actually offered it: and they do not pretend that there is any thing in Mr. Dick's character, or preaching, that has given them ground to alter their sentiments.—

2. As the opposition is carried on by a lawless mob, who have already committed several outrages, and threaten they will resist unto blood, the Synod think themselves under a necessity to take this extraordinary step, to discourage for the future such unchristian disorderly practices, and to support the authority of the General Assembly of this Church. 3. There is a very considerable number, about 160 subscribers to Mr. Dick's call, of heritors, elders, and heads of families, as the Synod is informed; and the Synod is well assured, that his preaching-gifts are very acceptable to the whole country."—Accordingly, after a sermon by the Rev. Mr. John Maclaurin, Mr. Dick was ordained minister of Lanark, in the Tron Church of Glasgow, at four o'clock afternoon of the 4th; and Mr. Lockhart of Lee the patron, and a number of heritors and others from the parish, there present, received him as their minister.

On Sunday, the 7th October, Mr. Dick went to the Church of Lanark with the view of preaching as the minister, but was prevented by a mob.

In the meanwhile, two actions of declarator had been going on in the Court of Session (brought in March and April 1749), by John Lockhart of Lee and George Lockhart of Carnwath, Esquires, against the officers of state, and against each other, of their title to the patronage.—The debate, however, was not reported by the Lord Justice Clerk until the 10th July, 1751,\* when the Lords found, "That neither the pursuer, John Lockhart of Lee, nor the other pursuer, George Lockhart of Carnwath, have produced a sufficient title to the patronage in question; and that, for ought yet seen, the said patronage remains with the crown; and, therefore, assoilzie the defenders from both declarators and decern." According to *Dunlop* (on Parochial Law, 1835, p. 198), the court held that "a grant of *novodamus* by the Exchequer in 1647, acting under an Act of Parliament in 1645, empowering them to expedite new gifts, was null, without the sign-manual of the King, who was at the time prisoner with the army."

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\* Nine months after Mr. Dick's settlement, and just the day after the rioters had been found guilty, but before the sentence was pronounced.

In consequence of this interlocuter, the Barons of Exchequer, on the 26th August, granted a factory to uplift the stipend payable to the minister of Lanark, bygone and in time coming, till his Majesty's presentee should be settled. And on the 5th of Sept., Mr. James Carmichael, Clerk to the Signet, the factor, brought his action before the Court of Session, against the heritors, for payment; and, among other defenders, called Mr. Robert Dick, the minister. A multiple-poiniding was brought by the heritors, October 29, in which they called as defenders, the minister, the officers of state, and the factor. Parties having been heard, and the debate reported by the Lord Drummore, the following interlocutor was pronounced, July 29, 1752 :—"The Lords prefer Mr. Robert Dick, the incumbent, to the stipend that hath fallen due since his admission to be minister of the parish of Lanark, and in time coming during his incumbency; and decern accordingly."

A reclaiming petition was given in for his Majesty's Advocate and the factor, in which notice is taken of the court having been much divided on the question; and a long account is given of Mr. Dick's admission, concluding thus :—"It is truly with great concern that the petitioners find such things upon record of any of the reverend judicatures of the Church of Scotland, and that these should contain any proceedings, which, but to relate or set forth as they truly happened, must serve to expose them. The petitioners do this with the utmost unwillingness; but it is what their indispensable duty requires. The rightful patron (who in this case is the King himself), the well-qualified presentee, by him offered in due time, the magistrates and council, and body of the inhabitants of the town and parish of Lanark, zealously affected towards that presentee, do all find themselves greatly aggrieved by these untoward proceedings, herein above, and in the minutes hereby referred to, recited and set forth, with no other intent than to move or persuade your Lordships to give redress to the parties aggrieved, which the petitioners do earnestly wish to obtain from your Lordships, for many reasons, and, *inter alias*, to prevent any farther occasion of setting forth these same proceedings where it may otherwise be necessary." It was therefore contended, 1. That Mr. Dick is not validly admitted; and, 2. That, though he were, the King, *qua* patron, is entitled to retain the

fruits till his Majesty's presentee be admitted ; as was lately found in the case of Culross, and formerly in that of Auchtermuchty. The court pronounced an interlocutor, Nov. 25, 1752, " preferring Mr. James Carmichael, factor, appointed on behalf of his Majesty, the patron, to the stipends in question."

Against this interlocutor Mr. Dick reclaimed. It was said for him, That he was admitted in pursuance of a judgment of the Assembly 1750, in which there were three judges of the supreme civil court present, all voting on the side of the judgment ; and that any uncommon methods taken, relating to his admission, were rendered necessary by the violent and riotous proceedings of the people of Lanark, which did not subside till a criminal prosecution was brought against the rioters. And it was contended, That none of the servants of the crown are entitled to challenge the private right of any subject, without a special warrant from the King ; that as no such warrant had been produced, his Majesty's Advocate had no title to molest Mr. Dick in the possession of his benefice ; and that such warrant was necessary in the present, if in any case ; because, 1. The claim now made is founded on a rigorous interpretation of an ancient statute, enacted above 150 years ago, of which no sovereign has ever attempted to take the benefit ; and, 2. The particular regard his Majesty has always shown to the Church of Scotland is such, that it cannot be believed he would, upon a fair representation of the case, take the benefit of that statute to deprive a minister who had been once legally established by that Church.—To this it was answered, That the King's Advocate received his Majesty's commands, signified to him by his Secretary of State, by a letter, dated, *Whitehall, Jan. 17, 1752*, " directing and ordering his Lordship to do every thing necessary, and competent by law, for asserting and taking the benefit, in the present case, of the said right and privilege of patrons by the law of Scotland, to retain the fruits of the benefice in their own hands until their presentee be admitted," and that his Lordship informed the court of this before the interlocutor of Nov. 25, 1752, was pronounced ; but at the same time declared, that he mentioned it only to clear himself from certain insinuations which he knew to be unjust with respect to himself, and by no means as judging any special warrant

necessary for appearing in such a case as the present. The court, March 2, 1753, pronounced an interlocutor precisely the same with that of July 29, 1752, above recited.

On an appeal to the House of Peers, the following final judgment was given:—" *Die Mercurii*, 9<sup>o</sup> *Maii* 1753.— After hearing counsel, as well on Monday last as yesterday and this day, upon the petition and appeal of William Grant, Esq., his Majesty's Advocate for Scotland, on behalf of his Majesty, and James Carmichael, Clerk to the Signet, factor, appointed by the Barons of the Exchequer in Scotland for levying the vacant stipends of the church and parish of Lanark, complaining of two interlocutors of the Lords of Session in Scotland, of the 29th July, 1752, and 2d of March, 1753, and praying that the same might be reversed; and that the interlocutor of the said Lords, of the 25th November, 1752, preferring the said appellant, James Carmichael, to the stipends in question, might be affirmed; and that such other relief might be granted the appellant as to this house in their great wisdom should seem meet; as also upon the answer of Robert Dick put in to the said appeal, and due consideration had of what was offered on either side, in this cause; it is ordered and adjudged by the Lords Spiritual and Temporal in Parliament assembled, That the said interlocutors of the 29th July, 1752, and 2d of March, 1753, be, and the same are hereby *reversed*; and it is hereby further ordered and adjudged, that the said interlocutor of the 25th of November, 1752, be, and the same is hereby *affirmed*."

The following additional particulars respecting this important plea, and its results, are furnished by Sir Henry Moncrieff, in the Appendix to his Life of Dr. Erskine (p. 532):—

"After the right of patronage had been decided, and the question relating to the induction of the minister came before the Court of Session, it was pleaded for Mr. Lockhart of Lee, or rather for his presentee, that every patron in possession is entitled to retain and enjoy his patronage, till he is legally dispossessed; that from the documents produced to the Presbytery, added to those which were found on their own record, he had a legal right to present to the vacant benefice; and that even though his right was challenged before collation was given, his presentation was notwithstanding legally entitled to be made effectual for



*that vice*, and could not be rendered invalid *after execution*, by any subsequent decree setting aside his right of patronage. In support of this doctrine were quoted, ‘Lambertinus De jure patronatus, Lib. ii. Part 1, Quæst. 3. Art. 4.—Jacob’s Law Dictionary.—Reg. Maj. Lib. 3, cap. 33.’

“It was pleaded, on the same side of the bar,\* for the Presbytery, that they had complied with the direction of law, when they admitted the presentee of the patron in possession, and, as far as they were instructed by the documents before them, of the legal patron: That, though the law requires a Presbytery to admit the presentee of the patron, it has given them no remedy, in the case of competing patrons, by which they can bring the claims in competition before the civil courts: That the jurisdiction which the law has given them implies, that they must have a power of judging of the rights of competing patrons, *prima instantia*, to the effect of explicating that jurisdiction: That their judgment must of course have the effect to determine the settlement of the Church *pro hac vice*, and after execution to exclude every claim for vacant stipend: That the application of this doctrine does not prevent the parties from bringing their civil rights to trial afterwards, or to settle them in all time coming by the sentence of the civil courts; whereas, if the Presbyteries have not the right of determining *pro hac vice*, as the opposite doctrine affirms, it would follow of necessity, that they cannot comply with the law which requires them to induct a presentee, in any case, where there is a competition for the right of patronage; and that, in this way, parishes might be kept vacant for many years, during the protracted litigations of competing patrons: That if patrons should sometimes suffer by erroneous judgments pronounced by Presbyteries, they would, in such instances, have only their own negligence to blame, because they ought to have taken measures to settle their rights of patronage before the vacancies occurred; and that they have not only no ground for complaint, when the Presbyteries induct the presentees, who appear to them, from the docu-

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\* The counsel were Craigie (afterwards Lord President), M’Queen (afterwards Lord Braxfield), and Brown (afterwards Lord Coalston.) Additional extracts from their pleadings will be found in the Report of the Auchterarder case, vol. i. p. 317, as given by Mr. Hope from Lord Drummore’s collection of Session papers, now in his possession.

ments before them, to have the best title, but can have no right to avail themselves of their own negligence to protract the vacancies by litigation, so as to deprive the parishioners, in the meantime, of all the advantages of pastoral care. And finally, that the power claimed by the Presbytery of Lanark is no new or unfounded pretension: That the same power was uniformly exercised by the bishops in Scotland as long as episcopacy was established; and that the Presbyteries, coming in place of the bishops, must be vested with the same jurisdiction.

“These arguments were completely successful in the Court of Session, who *unanimously*\* found, that the minister inducted had a legal title to the benefice.

“The same arguments, afterwards pleaded on an appeal at the bar of the House of Lords, were not equally successful there. Lord Hardwicke, who was then the Lord Chancellor, reversed the judgment of the Court of Session, chiefly on a ground which none of the parties had anticipated; and which, not having at all occurred to the counsel who had pleaded the case for the respondent, could be met by nothing which had fallen from the bar. Lord Hardwicke said, that he could not conceive how a Scotch bishop could have been possessed of a power or jurisdiction, which an English bishop never had. Though the answer is very obvious, that they lived under very different constitutions, and, as bishops, had in this point, and many others, a very different jurisdiction, there was no possible opportunity of making this reply. The decree of reversal was in consequence pronounced; and whether it was well or ill founded, this decision has ever since been held as having laid down the law on the subject.

“At the same time, the following anecdote† may be relied on, although, as the question of law is now for such a length of time understood to be settled, it is perhaps no longer of any importance.

“The counsel who pleaded for the presentee to Lanark, and who belonged to the English bar, was so thoroughly

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\* This is a mistake—it was by the narrow majority of *six to five*.—See *Elchies' Report*.

† See the Dean of Faculty's remarks on this anecdote in the Report of the Auchterarder case, vol. i. p. 320. Indeed, the reader will do well to compare all Sir Henry Moncrieff's statements and opinions on this case with those of Mr. Hope, in that Report.

convinced that the decision was wrong, and that the Lord Chancellor had misapprehended the point on which he had rested it, that he afterwards asked his Lordship to give him an opportunity, for his own satisfaction, to converse with him privately on the subject. He was the more solicitous to have this opportunity, that at first he had himself been with difficulty persuaded to relinquish his English prejudices, in favour of the powers claimed for the Presbyteries in Scotland, and asserted to have belonged to the Scotch bishops; but was ultimately so thoroughly persuaded that the doctrine was sound, that he thought he would either be able to satisfy Lord Hardwicke that the decision was not founded in law, or would hear from his Lordship a reason to convince him that his own opinion had been too hastily adopted. Lord Hardwicke very readily gave him the opportunity which he requested.—The result was, that he so completely convinced his Lordship that he had taken up an English idea, not applicable to the law of Scotland, and that the ground on which he had chiefly rested his decision was untenable, that he candidly acknowledged his mistake; and requested him to say to the clergyman chiefly concerned, whom he had seen at the bar, that he was afraid he had done him an injury by an involuntary mistake, which he had not the power of correcting; but trusted that he would be candid enough to believe, that he had acted conscientiously at the time, and sincerely intended to do justice to all the parties.

“This anecdote the writer received from Dr. Dick, the clergyman in question, a very few weeks before his death. He had been translated from Lanark to Edinburgh in 1754; and, even at that distant period (in 1782), he mentioned this history of his case in the House of Lords, with a considerable degree of emotion. He had suffered severely from the litigation. He had entered into life more independent than most of his brethren. But the expense of living at Lanark for the greatest part of four years without a stipend,\* added to the expense of the process, which (excepting the assistance which he got from the public

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\* The right to the church, the manse, and the glebe, were afterwards determined in favour of Dr. Dick, who possessed them till he came to Edinburgh.”—*Lord Moncrieff's Speech in the Auchterarder case*, vol. ii. p. 352.

funds of the Church at the disposal of the Assembly\*) fell entirely on himself, had nearly exhausted his resources before he was translated to Edinburgh; and materially affected his private comfort to the end of his life.†

“Dr. Dick was unquestionably one of the ablest and most distinguished men whom the Scottish Church has ever possessed. The extent of his knowledge, the correctness of his taste, the vigour of his talents, his capacity for the business of active life, and the powerful, chaste, and commanding eloquence, in which he had so few competitors, raised him far above the level of the greatest part of his contemporaries. Not unconscious of his own superiority, he had a strength of principle, and a delicacy of feeling, which often prevented him from asserting his just pretensions, and which gave his character a dignity and pre-eminence, of which every individual who associated with him was conscious.

“His eloquence in public debate was of the highest order: heard indeed but seldom, and never on insignificant subjects—but when it did break forth, the splendid and vigorous eloquence of intellect and feeling, supported by dignity of manner and powers of language, which the ablest of his opponents felt to be irresistible.‡ In a higher situa-

\* The Assembly of 1761 voted him £200, with interest from the date of the decree of the House of Peers.—*Edit.*

“† Before this subject is dismissed, it should be mentioned, that, independent of every question of law, the opposition made to Dr. Dick's settlement at Lanark was the effect of a political intrigue, conducted by the magistrates of Lanark, supported by the officers of the crown. The magistrates at first claimed the patronage to themselves, and offered a presentation to the Presbytery. But sensible that their claim could not be sustained, they had influence to obtain a presentation from the crown in favour of the same individual whom they had presented. Their own presentation was not insisted on; and all the subsequent litigation for the patronage was between the crown and Mr. Lockhart of Lee. The party politics of the burgh, and hostility to the family of Lee, had an influence at Lanark stronger than the merits of any question at issue. There have been doubts in later times, whether even then the right of patronage was decided, as it ought to have been. It has been understood that the patronage of Lanark was not the only one of which the family of Lee were in possession by the same tenure. But the crown has never attempted another challenge, and will not probably be forward to bring the decision given in the case of Lanark into question, by another claim on the same grounds.”

‡ Dugald Stewart, in his *Life of Principal Robertson* (p. 193), also bears testimony to the “classical, argumentative, and commanding eloquence of Dr. Dick.” His only published works are, 1). “The Simplicity and Popularity of the Divine Revelations, and their suitableness to the circumstances of Mankind: A Sermon, preached Nov. 8, 1757, at the opening of the Synod



tion he would have been equal to all that superiority of talents can achieve. In the situation which providence assigned him, he was less fortunate than many of his inferiors ; and conscious that he was so, he exerted himself less than he ought to have done.

“ But he knew how to preserve his high-minded dignity and independence, when he was most disappointed ; and as a man of sterling worth and probity, who never could bend his integrity to his interest, or seek by adulation or sycophancy the advantages which were due to his talents, he lived in the humble situation to which providence confined him, cheerful and contented among his friends, happy in his family, and universally respected and looked up to by the whole community of Edinburgh, till death suddenly and prematurely put an end to his honourable life, in 1782, at the age of sixty-one.”

Reports of the proceedings of the Court of Session in the Lanark case will be found in the *Fol. Dict.* IV. p. 52 ; *Morison*, 9954 ; *Select Decisions*, p. 22 ; *Elchies*, under “ Patronage,” No. 6. Its supposed bearings on the Auchterarder case may be seen from the Report of that case, in the speeches of Mr. Whigham (I. 84), the Dean of Faculty Hope (I. 312), and Lord Gillies (II. 26,48), for the *Pursuers* ; and of Mr. Bell (I. 110,119), Solicitor-General Rutherford (I. 403), Lords Fullerton (II. 248) and Moncrieff (II. 452), for the *Defenders*.

We shall now give the rest of the Assembly business :—

A motion, that the Assembly should declare it improper and indecent for any member of the Assembly to appear

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of Lothian and Tweeddale ;” and, 2). “ The Counsel of Gamaliel considered : the Anniversary Sermon before the Society for Propagating Knowledge, Jan. 4, 1762.” He also had a share in drawing up the “ Report on the State of Religion in the Highlands and Islands,” presented to the Assembly of 1761,—he and Dr. John Hyndman, of the West Kirk, having been appointed visitors by the Assembly 1760, and having taken along with them as Gaelic interpreters, Mr. Duncan Macfarlan of Drymen and Mr. Patrick Simson of Clunie, in Perthshire. Dr. Dick was elected one of the ministers of Edinburgh, on the 8th March, 1754, and was ultimately fixed in the Trinity College Church. He received the degree of Doctor of Divinity from the University of Edinburgh in 1756, along with Messrs. Wallace, George Wishart, Kay, Macqueen, and Macknight. In 1769, he was proposed as Moderator of the Assembly along with Dr. Macknight, then of Maybole, but the latter carried it by 103 votes to 91. Dr. Dick died on the 24th Aug., 1782.

at their bar, as a *procurator* in any cause, remitted to the consideration of the committee for overtures.

A complaint of heritors and others of the parish of *Kennoway*, against the Commission of last Assembly's sentence, sustaining a call by others of that parish to Mr. Neil Beton to be minister thereof, and another complaint of the callers of Mr. Beton, against the Presbytery of Kirkaldy for not proceeding to Mr. Beton's settlement, heard; and the Assembly found that a protest taken for liberty to complain against the Commission's sentence, was no sufficient reason to justify the Presbytery's disobedience to that sentence; and the Presbytery of Kirkaldy appointed with all convenient speed, to take the trials and proceed to the settlement of Mr. Neil Beton, probationer, to be minister of the parish of Kennoway, so as his ordination and admission shall be completed on or before the 28th day of September next; and the Commission empowered to judge and finally determine in any reference or appeal that shall regularly be brought before them from the said Presbytery or Synod of Fife relative to the said settlement.

A reference from the Synod of Lothian and Tweeddale, of a cause brought by appeal from a resolution of the Presbytery of Linlithgow, delaying to appoint a day for the ordination and admission of Mr. James Watson to be minister of *Torphichen*, brought in; and considering that Mr. Watson had already passed the usual trials, and being found qualified, and his edict served, and no objection made to his life or doctrine,\* the said Presbytery appointed to meet at Torphichen on the second Thursday of September next, and then to ordain and admit him to be minister of that parish. Mr. John Adams, minister at Falkirk, is appointed to preach and preside at the said ordination, and in case he shall not be in condition to perform that service, the next to him, to whom it falls in course, is ordered and required to do it; and it is recommended to the several members of the Presbytery to attend upon that occasion and give their concurrence, and the Moderator is appointed to write letters to the patron and other

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\* The objections stated were, that "he could not be heard in the church, and that they never could submit to his ministry, in regard he had accepted of a presentation without the consent and concurrence of almost the whole parish."—See the last and following year.

gentlemen, heritors, who concur with Mr. Watson's call, recommending to them to be present to countenance and support the Presbytery in the execution of this sentence, and also to give all protection and encouragement to Mr. Watson in the exercise of his ministry.

An appeal by the magistrates, town-council, heritors, elders and heads of families of the town and parish of *Tain*, from a sentence of the Synod of Ross, affirming a judgment of the Presbytery of Chanonry, refusing to transport Mr. Alexander Fraser from Avoch to Tain is heard, and the said Mr. Fraser continued in his charge at Avoch.

Overtures about the *Psalmody*, about *licensing probationers*, and about *processes against probationers*, are re-transmitted.

An appeal of Alexander Ross of Pitcalnie and others, callers of Mr. Gilbert Robertson, minister at Kincardine, to be minister of the parish of *Tarbat*, from a sentence of the Synod of Ross, sustaining a call by other heritors, and others of the said parish of Tarbat, to Mr. George Balfour, probationer, to be their minister, referred to the Commission.

The report of the committee upon the public money brought in, and the sum of £100 Scots ordered to be paid yearly to Archibald Govan, *Clerk to the Procurator* for the Church, in full for his trouble in the Church's affairs, in place of the casual emoluments which he has been in use to receive at consulting of causes and giving advices.

Order for payment of £9, 9s. sterling to Walter Miller, Clerk to the Committee of the Synod of Perth, for his trouble in the process against Mr. *Gilbert Man*, in respect of the speciality of the case, which makes it not liable to be drawn into a precedent.

Two several appeals, the one by the callers of Mr. James Syme, and the other by the callers of Mr. John Skirvan, probationers, for supplying the vacancy at *Alloa*, both from a sentence of the Presbytery of Stirling, refusing to concur with either of the two calls, referred to the Commission.

A reference from the Synod of Fife, of a cause brought before them by two several appeals, the one by the patron and heritors of the parish of *Inverkeithing*, callers of Mr.

Andrew Richardson, minister of Broughton, who is presented to the said parish of Inverkeithing, against the Presbytery of Dunfermline's sentence, refusing to sustain that call ; and the other appeal by others of that parish, callers of Mr. William Adam, minister of a dissenting congregation at Paneswick in England, against the said Presbytery for delaying to determine in the merits of that call, brought in, with a complaint against the Committee and Clerk of the Presbytery who moderated in the fore-said calls : and the Assembly referred the whole cause to the Commission.—[See the years 1751 and 1752.]

Another reference from the said Synod of Fife, of an appeal by Robert Laing of Lindores, patron, who presented Mr. Archibald Campbell to be minister of *Newburgh*, from a sentence of the Presbytery of Cupar, finding from Mr. Laing's presentation, and other papers produced, that there was no reason why they should not proceed to settle the parish of Newburgh, *tanquam jure devoluto*, referred to the Commission.

Reference to the Commission to cognosce and finally determine in two appeals taken by heritors, and others of the parish of *Logie*, from a sentence of the Synod of Fife, appointing a new moderation of a call for supplying the vacancy in the said parish.

It was moved to take into consideration an overture from the Synod of Merse and Teviotdale, for applying to Parliament to get the laws of *patronages* so explained as to prevent unqualified patrons from substituting others to present *pro hac vice*.\* The Assembly, considering the importance of the case, and the shortness of their time, being then near a conclusion, so that they could not consider it with due deliberation, remitted to their Commission to prepare an overture on this subject to be laid before next Assembly.

A congratulatory address to the King, on the Princess of Wales's delivery of a prince, was drawn up, agreed to, and signed May 21 ; the joyful news having arrived the day before.

The Assembly was concluded as usual, by a speech by the Moderator, another by the Commissioner, prayer, and singing. His Grace's speech was as follows :—

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\* This proposal took its rise from the *Dunse Case*, of the final disposal of which by this Assembly, an account has been already given.—See p. 152.



*Right Reverend and Right Honourable*,—The business of this Assembly is now over. Your moderation and unanimity in private causes, will, I am persuaded, give universal satisfaction; and the authority of the chair has been maintained with dignity, and at the same time with great indulgence. But there is one point with regard to which I cannot be altogether silent; and what will be the consequence of your decision in that affair, time alone, which lays open every event, will soon discover. If by aiming at too much you should lose all;—if by refusing to listen to the reasonable proposals of your true friends, they have it no longer in their power to give you that countenance and assistance which they sincerely meant;—if by forsaking the proper plan proposed for obtaining relief to your distressed brethren, they should still continue under pressing difficulties and hardships; and (which is of the highest importance) if unhappily the honour and credit of this Church should anyhow be sullied, or her peace and tranquillity disturbed, allow me to say, that as this must afford matter of real concern to many of the well-wishers of the Church, so doubtless they will lay the blame on those who at present imagine they have had the greatest merit in bringing about this measure. In such a disagreeable event, nothing could allay the pain which I must feel, but the reflection that I had not been wanting in my duty to warn you of the approaching danger; and you must then allow, that *I was not your enemy, because I told you the truth.*

*Right Reverend, and Right Honourable*,—We are now to part. I shall give you no further trouble, but to declare, from a heart full of affection for the Church of Scotland, that nothing shall give me greater joy, than to see my fears disappointed; and that nothing shall ever hinder me from employing my best endeavours for her real interest. I sincerely wish, that *peace may remain within her walls, and prosperity in all her palaces*: and wherein I can in any measure contribute to promote the honour, welfare, and advantage of this Church, and every minister in it, *notwithstanding all that has happened*, you shall always find me ready.

As you have now dispatched all the business you could overtake, and referred the rest to your Commission, it is high time I dissolve this Assembly. I do therefore, in

his Majesty's name, and by his authority, dissolve this Assembly; and I do, by his authority, ordain the next meeting of Assembly to be on the 9th day of May next, 1751.

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COMMISSION MEETING IN NOVEMBER.

THE Commission met on the 14th of November, and appointed a committee of their own number, three of whom to be a quorum, to admit Mr. James Oswald, minister at Dunnet, to the ministry at *Methven*, on the 12th of Dec.\* or, if hindered by the rigour of the season, on any other day the committee shall appoint before the Commission's Meeting in March next; and nominated Mr. Alexander MacLagan, Moderator, or, failing him, Mr. Robert Menzies at Comrie, to preach and preside at the admission.—As the Presbytery of Perth had been ordained by the last Assembly to admit Mr. Oswald on or before the 10th of July, the Commission issued a warrant for summoning them to appear at their bar, to answer for their disobedience.

Next day they likewise appointed a committee of their number to concur with the Presbytery of Stirling, in ordaining Mr. James Syme, probationer, to the ministry at *Alloa*, on the 21st inst. *without executing any new edict*;† and nominated Mr. Alexander Gordon, minister at Kintore, to preach and preside at the ordination.

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\* Mr. (afterwards Dr.) Oswald was accordingly admitted on that day without disturbance.—He was the author of "*An Appeal to Common Sense*, in behalf of Religion (1766—1772), in reply to Hume,"—his philosophical principles being akin to those of Reid and Beattie. He was Moderator of the Assembly in 1765, and the sermon he preached at the opening of the Assembly 1766 was printed along with "Letters on some points of importance contained in the sermon." Another sermon of his on "the Divine Efficacy of the Gospel Dispensation," was preached before the Society for Propagating Christian Knowledge, in 1770. He also published in 1774 "*Six Sermons on the General Judgment*."

† On the 16th Sept. when Mr. Syme's edict should have been served by Mr. Warden of Gargunnock, there was a commotion of the populace which prevented it. His settlement had been fixed for the 28th of that month, but "the colliers of that and two or three adjacent parishes, assembled riotously to prevent it, rung the church-bell from morning to night, and in the afternoon displayed a flag from the steeple in token of victory, none offering to oppose them." To obviate the recurrence of this, four companies of soldiers

1751.

## COMMISSION MEETING IN MARCH.

THE Quarterly Session of the Commission of the General Assembly was held on the 13th March. In obedience to the order of the Commission in November, the ministers of the Presbytery of Perth appeared at the bar, and were rebuked for disobeying the sentence of last Assembly, appointing them to admit Mr. Oswald as minister at *Methven*. As none of the elders of that Presbytery appeared, they were appointed to be summoned to the next Assembly.

The Presbytery of Haddington laid before them the interlocutor of the Court of Session, in the case of *Humbie*

were stationed in the town some time before the day of ordination, but he was settled without any disturbance.

“On the 7th Jan. 1751, James Sharp, shoemaker, William Sharp, his son, John and William Clerks, weavers, William Paterson, coal-brewer, commonly called *Braes*, James Anderson, baxter, and Jean Nicol, spouse to David Harrower, maltman, all in the parish of Alloa, were tried before the Justiciary Court, for having, on Sunday, the 16th of September, assaulted Alexander and George Abercrombies, of Tillibody, Esqs. and forcibly obstructed Mr. Warden, minister at Gargunnoch, from preaching at Alloa, and serving the edict previous to the ordination of Mr. James Syme, as minister there; with other riotous proceedings. The jury returned their verdict on the 8th, finding them guilty, art and part, of the crimes libelled. The Lords pronounced sentence on the 11th: by which, William Sharp, William Paterson, and John and William Clerks, were banished to the plantations for seven years, to be computed from the time of their landing; with certification, that such of them as should return to Scotland within the time limited, should *toties quoties*, be whipped through Edinburgh, and re-transported for other seven years: James Sharp was banished Scotland for seven years, from and after the 30th of January, and in case of his returning, to be *toties quoties* whipped through Edinburgh, and banished other seven years: James Anderson was fined in 200 merks Scots to the private pursuers, and ordained to be kept prisoner in Edinburgh tolbooth, till the 15th of May next: and Jean Nicol was ordained to pass through Edinburgh on the 29th of January, her hands tied behind her back with a rope, the hangman walking immediately behind her, and holding the end of this rope in one hand, and his whip in the other, and then to be confined to the Edinburgh correction-house, at hard labour, till the 15th of May next. This took place accordingly on the 29th.”

Mr. Syme succeeded Mr. James Gordon, (who died on the 6th August, 1749,) but he did not occupy the charge more than two years, having died on the 29th January, 1753. He married a sister of Principal Robertson, (a woman of a very superior mind,)—and their only daughter, Eleanora, became the mother of one of the most remarkable men of the present day—having married, on the 25th May, 1773, Henry Brougham, Esq. younger, of Brougham-Hall—the father of *Lord Brougham*, who was born in Edinburgh in 1779.

parish,\* and represented, That it might bring about a considerable alteration in the constitution of the Established Church, and be attended with many hurtful consequences both to the poor and the Kirk-session; and that Mr. John Cuming, minister of Humble, had received a letter, signed by four heritors of the parish, demanding the records of the Kirk-session from the time of his admission to that charge, in 1715, to be put into the hands of one or other of them. On this the Commission unanimously gave it as their judgment, That the heritors have no right to demand the records out of the hands of the session-clerk, and that the session-clerk should not deliver them; but that he should allow the heritors inspection of them in his own custody, or extracts, if required, upon their charges. A memorial was likewise produced from Mr. William Macculloch, minister at Cambuslang, and his Kirk-session, in relation to a process of the same nature commenced by one of the heritors of that parish against them. The Commission appointed a committee to consider both cases, and to re-

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\* A process of declarator, with respect to the management of the poor's funds, was brought before the Court of Session, by the heritors of the parish of *Humble*, against the kirk-session; and the Lord Shewalton, Ordinary, on advising the debate, pronounced the following interlocutor, June 23, 1749, "Finds the pursuers have right to call for and take inspection of the books of the defenders the kirk-session, with respect to their administration of the funds belonging to the poor; and, upon any mismanagement therein, to insist for redress thereof, as accords of the law; and decerns and declares accordingly: but finds they have no joint right with the kirk-session in the application and distribution of the funds."—Both parties acquiesced in the first part of this interlocutor; but the heritors reclaimed against the last part of it, which finds that they have no joint right with the kirk-session in the application and distribution of the funds. Answers having been made by the kirk-session, parties were heard in presence, and informations given in, by appointment; and then the Lords gave judgment, Feb. 15, 1751, viz.—"Find, That the heritors have a joint right and power with the kirk-session in the administration, management and distribution of all and every of the funds belonging to the poor of the parish, as well collections as sums mortified for the use of the poor, and money stocked out upon interest; and have right to be present, and join with the session in their administration, distribution, and employing such sums; without prejudice to the kirk-session to proceed in their ordinary acts of administration, and application of their collections, to their ordinary or incidental charities, though the heritors be not present nor attend. But, for the better preventing the misapplication or embezzlement of the funds belonging to the poor, they find, That when any acts of extraordinary administration, such as, uplifting of money that hath been lent out, or lending or re-employing the same, shall occur, that the minister ought to intimate from the pulpit a meeting for taking such matters under consideration, at least ten days before holding of the meeting, that the heritors may have opportunity to be present, and assist, if they think fit: And decern and declare accordingly."



port their opinion to the Commission in May, or to the Assembly, if they see cause.

A committee to whom it had been referred to consider of what was remitted to the Commission by last Assembly, in relation to *unqualified patrons*, brought in an overture, which was read, and unanimously approved of, importing, "That many dangers may arise to the interest of religion and our happy constitution, by unqualified patrons disposing their right of patronage for a single *vice*, or during the life of the disponent only, to persons in whom they can confide, and who will present none but such as are recommended by the nonjuring patron;—that by this practice an opportunity may be given of manifest collusion, to the encouraging of persons disaffected to his Majesty's person and government and our happy constitution, and to the disturbance of the peace of the Church and the quiet of the nation; and that, therefore, humble application should be made by the General Assembly to the Legislature, that an effectual remedy may be applied for preventing such evils."

On the 14th, it was resolved, that a meeting extraordinary of the Commission should be held at Edinburgh, on the 3d April; and that the Assembly's Commissioners\* at London should be made acquainted with it, and desired to advert, if, in any bill to be brought into Parliament, any clause should be proposed to be inserted that might affect the constitution of the Church of Scotland, and immediately to acquaint the Moderator with it, that he might call a meeting of the Commission *pro re nata* if there should be occasion.

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#### EXTRAORDINARY COMMISSION-MEETING IN APRIL.

THE Commission having met according to appointment (April 3), a letter from Mr. Robert Paton, one of the Commissioners aforesaid, was produced, with an order of the Privy Council, of date March 22, requiring, in pursuance of an Act, 10<sup>o</sup> *Annæ*, in which provision is made for

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\* Messrs. Paton, Cuming, and Steel, who had gone to London to prosecute the Augmentation-Scheme in the beginning of November. The ground of apprehension was lest in the proposed Act of Parliament a clause might be introduced to enforce more strictly the law of patronage, as a kind of compensation to the landed interest for raising the stipends of the clergy.

praying for the Royal Family in Scotland, "That henceforth every minister and preacher shall, in his respective church, congregation, or assembly, pray in express words for *His Most Sacred Majesty King George, their Royal Highnesses the Princess of Wales, the Duke, the Princesses, the issue of the Prince and Princess of Wales, and all the Royal Family.*" This order was put into Mr. Paton's hand, with a particular mandate directed to him, to communicate it in such a manner as that due obedience might be paid to it. The Commission appointed a copy of the order to be sent to each Presbytery, and recommended the observance of it.

In this letter Mr. Paton, in answer to one written by the Moderator, acquaints the Commission, in name of himself and the other Commissioners at London, that they knew nothing yet of any clause designed to affect the constitution of the Church ;—that they had been and should be watchful of her interests ; and that if any thing should cast up which required the Commission's attention, notice should be given of it speedily. Motions were made for both general and particular instructions to be given the Commissioners. In the latter, mention was made of guarding against any clause by which the law of patronages may be extended, or more strictly enforced. But upon a vote, it carried for general instructions only, *viz.*, "The Commission authorise and appoint the Commissioners, That in case, in any bill to be brought into Parliament, there be any clause proposed to be inserted that may be prejudicial to the interest or peace of this Church, they do humbly petition either or both Houses of Parliament, to be heard by counsel, in name of the Church, against the passing of such clause." A copy of which was appointed to be transmitted to them.

Several members represented, that a report was current, that circular letters had been written, tending to alarm the minds of brethren with apprehensions of danger to the Church ; and that papers had been sent about, to be signed by ministers, containing a commission to an agent at London to employ counsel to appear for them. After reasoning, it was proposed to resolve, That all the members who had spoken declared their dissatisfaction with such irregular practices ; but that the Commission did not think fit to insist further in the matter. Others moved

to drop the affair altogether: but upon a previous vote, the resolution was agreed to.

An address of condolence by the Commission, on the death of the Prince,\* was transmitted to London, to be presented to his Majesty by the Assembly's Commissioners.

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ASSEMBLY, 1751.

THE General Assembly met on the 9th of May. As Messrs. Paton and Cuming, the Moderators of the two last Assemblies, were at London, the sermon was preached by Mr. George Wishart, who had the chair in the Assembly 1748. The Earl of Leven was High Commissioner.—Mr. Wishart being Principal Clerk, the first meeting was opened with prayer by Professor Lumisden of Aberdeen, who had been Moderator of the Assembly in 1746.—Dr. William Wishart, Principal of the College of Edinburgh, and Mr James Mackie, minister at St Ninian's, were put upon the leet for moderator: it carried for the latter, 76 to 62; and there were 2 who voted *non liquet*. This was looked upon as a trial of strength, and went in favour of the *augmentation-scheme*.

On the 13th, Professor Gowdie, to whom the letters of correspondence were appointed to be directed, laid before them a letter from the preceding Assembly's Commissioners at London, which was read, the tenor whereof follows:—

REV. SIR,—That you may have a clear and full view of the whole of our proceedings here, we have judged it proper to give you the following account.

After being at all pains to be sufficiently instructed in the nature of the business committed to us, and which we reckoned ourselves indispensably obliged to prosecute, three of us set out for London, where we arrived upon the 17th of November last; judging it necessary to be here so early, that we might have time to remove, if possible the prejudices which had been raised against us; and have more leisure and opportunity, to give a fair repre-

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\* Frederick, Prince of Wales, son of George II., and father of George III. He died on the 20th March.

sentation of the instructions given us, by conference with those principally concerned in the administration, before the meeting of Parliament, when probably we could not have such easy access to them. Accordingly, at different times we waited upon the ministers of state, and other persons of the highest rank and influence ; had a fair hearing from them, and opportunity to obviate, in the best manner we could, the objections which had been moved against us. We were received by them with great civility, and with expressions of high regard to the Church of Scotland, for our distinguished loyalty and usefulness ; but had no definitive answer from them, further than that they would have the matter under their consideration, and hear what might be represented upon the other side by the members of Parliament from our own country.

After the meeting of Parliament, we waited upon many members of it in both houses, from North as well as South Britain, who were reckoned to have the greatest influence ; and endeavoured, in the best manner we could, to reconcile their minds to the views of the General Assembly ; particularly with respect to the raising of the minimum.

As soon as we received our records, and other papers necessary to state and support our cause, we gave in to the ministers of State a written memorial of the several articles given us in charge by the General Assembly : and, some time after we printed that memorial, with additions, under the title of, *A just view of the proceedings of the General Assembly, &c.* copies of both which we transmitted to the committee of correspondence ; wherein we particularly insisted upon the reasonableness and necessity of raising the minimum.

When it was thought proper, we had the honour of being presented to his Majesty, and the Royal family ; and were graciously received.

We omitted no opportunity of promoting our cause as far as we were capable : but, after all our diligence, we were assured by those chiefly concerned in the administration, that in the present circumstances we could have no hope of getting the minimum raised ; and that the mentioning of it in our petition, would destroy the whole of it.

In this situation we found ourselves obliged, though with the greatest reluctance, to drop what we were convinced was by far the most important part of our commis-



sion, and which could give the most effectual relief, and which we knew the General Assembly had had most at heart; and to submit, that our petition, under the direction of the Lord Advocate for Scotland, would be framed and presented by him, with the consent of the Earl of Morton, and of Mr. Hope, only with relation to the other articles contained in the instructions given us by the General Assembly. And to this resolution, of framing and offering our petition upon these articles only, we were moved by these reasons. 1. Because we were expressly instructed by the General Assembly to apply to Parliament for relief in these articles. Two of them particularly had been pointed out, and recommended to the Assembly 1750, by the committee which had been appointed by the preceding Assembly. And though we were sensible it was the mind of the Assembly 1750, that we should urge the raising of the minimum; yet the instruction relating to it was so worded in our commission, as to give a handle to the opposition, and to others also, to say, that we were positively appointed to insist upon the other articles only. 2. Because we had just reason to expect the concurrence of the ministry, and to render our application for these other articles effectual; and had strong assurances from such who had formerly opposed us, that they would use their best offices to render our application successful. 3. Because we judged it better, to obtain something, though of lesser consequence, than to lose all. And in this view we were greatly encouraged by some of the best friends of the government, and of our present happy constitution, who all along showed a disposition to favour us so far as circumstances would allow.

It had been agreed, for the sake of harmony and peace, that our petition should lie upon the table, until an answer should come from the committee of Mid-Lothian, how far they would acquiesce to our obtaining a bill upon it. A favourable answer was then expected; but we were disappointed in the event. We then urged the moving of our petition in Parliament: but our friends, in hopes of that committee's coming into more pacific measures, still urged a delay; to which, for the sake of peace, we agreed. The mournful event of the unexpected death of the Prince of Wales for some time retarded business: but when we were assured at length, that there were no hopes of ac-

commodating the matter with the Mid-Lothian committee, but by dropping our petition entirely, we thought it our duty still to insist upon it; because, when our petition was laid upon the table, it was understood to be with a view to have it taken up, whatever answer should be sent from the committee of Mid-Lothian; and because there was not the least colour or foundation, from any of the public resolutions of the counties of Scotland, to oppose us in those articles to which the Assembly had agreed without a vote.

When our petition was moved in the House of Commons, a committee was appointed to inquire into the allegations of it, and to report the same to the House. At the same time, a petition from the members of the committee of Mid-Lothian, in opposition to ours, was offered to the House, and referred to the same committee.

We have finished our evidence in two diets of that committee. The opposition have taken up two diets more in offering evidence to invalidate the allegations of our petition; and the committee is adjourned to Tuesday next; when the opposition are to proceed in laying what further evidence they have to offer, before the committee. And we can plainly perceive, their design is, to protract the time, in such a manner, as that our affair shall not be brought to any issue before this session of Parliament is ended, where we have good reason to hope our petition would be granted. And here we must beg leave further to inform you, that not only many members of Parliament, but all impartial persons whatsoever, are not a little surprised, that such a keen opposition should be made to these articles, which cannot in the least hurt the landed interest, though they may be of benefit to us; and that they cannot ascribe this to any other motive or principle, than to give an absolute discouragement to any future application to Parliament from the Church of Scotland upon any occasion which is to exclude us from the privilege of British subjects.

We have only to add further, that as soon as we were informed of some surmises spread here, as well as with you, that occasion would be taken from our petition, to make some attempt in Parliament, for binding the *law of patronages* more strictly upon the Church of Scotland, we applied the greatest diligence to see what ground there

might be for such a report, and if there was any such design, to prevent it, even before we had any particular instruction for it from the late Commission of the General Assembly : and, as we wrote formerly we have good reason still to believe, that no such design is formed by those chiefly concerned in the administration. But if contrary to our expectation, any such attempt should be made, we shall still continue faithful and diligent to do every thing in our power to prevent it.

And with great regard we are,

Rev. and dear Sir,

Your very affectionate humble servants,

ROB. PATOUN.

PATRICK CUMING.

WILLIAM STEELE.

DAV. DALRYMPLE.

*London, Panton Square, May 4, 1751.*

This letter was referred to the following committee, whose report was to be received next morning, *viz.* The Moderator, Principals Campbell, (of Glasgow,) Wishart, and Tullideph, Professor Lumisden, Messrs. James Ogilvy at Aberdeen, John Adams at Falkirk, George Lindsay at North-Leith, James Nasmyth at Dalmeny, James Robe at Kilsyth, James Howie at Newhills, John Hunter at Ayr, William Steel at Dalserf, John Smith at Kincardine, Adam Ferguson at Moulin, Robert Robertson at Kirk-michael, David Duncan at Stow, and Robert Wight at Dumfries, ministers, and the Lords President, Justice-Clerk, and Drummores, the Master of Rosse, Baron Maule, Mr. Gilbert Elliot of Lochgalley, Mr. Andrew Pringle, Advocate, the Lord Provost of Edinburgh, Mr. James Balfour of Pilrig, Mr. John Stewart, younger, of Allinbank, and Commissioner Colin Campbell, ruling elders ; seven of whom to be a quorum, and of these four to be ministers, and three to be ruling elders.

Next morning this committee represented, that they had met according to appointment, but could not agree in any report. The Assembly therefore took the letter under consideration themselves ; and, after long reasoning, agreed without a vote, on the draught of the following letter to be sent to the Commissioners, to be written by the Moderator ; and the four Commissioners, any one or

more of them, were empowered and instructed to act as it directs:—

*Reverend and Honourable*,—Your letter, of date the 4th of May, directed to the Rev. Professor John Gowdie, was by him, according to your desire, communicated to, and has been considered by this Assembly. And since it appears by it that you were reduced to the necessity to drop that point relating to enlarging the minimum mentioned in the Act of Parliament 1633, the General Assembly does now instruct you to carry on the petition which you have presented to the honourable House of Commons, and to bring the same to as comfortable an issue as you can. And at the same time the Assembly does further instruct you, to use your utmost endeavours to prevent the adding any clause to a bill which may be brought in upon the said petition, or to any other bill, which may be detrimental to the interests and concerns of this Church, and particularly any clause which may extend or further enforce *the law of patronages*, and to employ counsel to be heard against any such clause, and to apply to Parliament for that effect, as you shall be advised, or think proper.”

At the desire of Mr Robert Dundas, younger of Arniston, the clerks were authorised to give out extracts of the letter from the Commissioners; and that gentleman sent one of them *per* express to London, to the agents for the opposition. On the 15th, a committee was appointed to correspond with the Commissioners, consisting of twenty-five ministers and eight ruling elders, and of such members of the preceding correspondence-committee as were members of this Assembly. The instructions, &c. of this committee, are the same with those given to the former; and the letters of correspondence are appointed to be addressed to Mr John Jardine,† one of the ministers of Edinburgh, Professor Gowdie not being a member of this Assembly. On the same day, there was produced, a letter

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\* He was one of the ministers of the Tron Church. Mr. Henry Mackenzie, in his “Life of John Home,” speaks of him as “a man of infinite pleasantry as well as great talents,”—whose “playful vivacity often amused itself in a sort of mock contest with the infantile simplicity of David Hume.” Dr. Jardine’s death was awfully sudden. On the 30th May, 1766, having been in the Assembly-House to hear the debates on the famous *Schism-Overture* (though not a member), and being to appearance in his ordinary health, he dropt down, never spoke, and was carried home dead.



from Mr. William Steele, minister at Sorn, one of the Commissioners aforesaid, to Professor Gowdie, dated at London, May 7, representing that the declining state of his health, and the affliction of his family at home, had determined him to go to Scotland sooner than he intended; and therefore hoping that his going away would not be taken amiss or misconstrued,—which apology the Assembly sustained.\*

[The history and fate of the *Augmentation-Scheme* in Parliament may be given very shortly. The petition of the Church's Commissioners was presented to the Commons on the 7th March by the Lord Advocate, (William Grant, formerly Procurator of the Church, afterwards Lord Prestongrange); and on his motion, seconded by the Hon. Charles Hope-Weir, it was ordered to lie on the table. On the 22d April, it was moved by Colonel Haldane that the petition be read; and a committee was appointed to examine the matter of it and to report. Then a petition of James, Earl of *Morton*, James, Earl of *Lauderdale*, John, Earl of *Hopeton*, *Charles Hope-Weir*, *Robert Dundas*, and *Archibald Murray*, Esqrs. (the Mid-Lothian Committee) on behalf of themselves and great numbers of other noblemen, gentlemen, freeholders and heritors in Scotland, was presented, praying to be heard against said petition; and this was referred to the same committee. Evidence was led by both parties before the committee, whose Report with an Appendix, was given in by Colonel Haldane on the 24th May, and ordered to be printed. On the 3d June, a motion was made that the House would, upon the 5th, resolve itself into a committee of the whole House, to consider the Report; *but it passed in the negative*, and the Report was thereupon committed for that day two months—in other words, the whole scheme fell to the ground.†]

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\* Mr. Steel seems to have returned to London not long after; and, though now an old man (see p. 119), became minister at Founders-Hall. He died on the 16th April, 1752.

† Each party had circulated among the members of the House of Commons a case founded on the evidence they had respectively adduced. But, besides this, on the day previous to that on which the measure was lost, the following document was distributed *by an unknown hand*, and had probably no small influence in prejudicing the House against the whole scheme:—

“ *Reasons for enforcing the law relating to patronages in Scotland.* ”

“ By the Act made in Scotland in 1690, the presenting ministers in Scot-

An order of council was produced, in the same terms and transmitted after the same manner with the order sent the Commission in March, requiring the new alteration in the *prayers for the Royal family* to be made by the ministers and preachers of the Church of Scotland. To which order the Assembly recommended all due obedience to be paid.

A member of Assembly who was an advocate, having appeared as a procurator in a cause before them, a committee was appointed to consider how far such a practice was proper.—On report of whom, May 15, the Assembly came to the following resolution:—"The General Assembly, considering, that they have a title to the assistance of all their members as judges, in all causes brought before them, they being expressly commissioned by their constituents *to consult, vote, and determine in all matters that shall come before the Assembly*; as also that those who are appointed members of the Commission of the General Assembly are obliged, by that appointment, to concur in cognoscing and determining in every matter referred to them: do therefore resolve, That, in time coming, none who are constituent members of the court shall act as counsel or procurators in any causes which come before the Assemblies, or Commissions thereof. But that no parties may sustain any disadvantage who have

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land was taken from the patrons, and given to the heritors and elders, subject to be cognosed on by the Presbytery of the bounds,—at whose judgment, and by whose determination, the calling and entering of every particular minister were to be ordered and concluded.

"By the Act 10<sup>o</sup> *Annæ*, cap. 12. it is declared, That this way of calling ministers had proved inconvenient, and had caused great heats and divisions among the heritors and elders thereby authorised to call ministers. And, therefore, the said Act of 1690, as to this point, was thereby repealed, and the right of presentation was thereby restored to the patrons.

"It appears, however, that the Presbyteries of Scotland pay very little or no regard to this law; and that, in direct disobedience to it, they frequently refuse to enter the patron's presentee; and, for the most part, moderate the call of another person named to them by the christian people, as they are called, the heritors, or the elders.

"It is therefore submitted, that as great part of the persons who now apply to Parliament for relief, with respect to their stipends, became entitled to them in breach and opposition to a law made by the Parliament of Great Britain, that, in case the wisdom of Parliament shall incline to indulge the clergy with any alteration of the law as to these matters, they will at the same time make effectual provisions for enforcing a due obedience to the Act of the 10th of Queen Anne, in such manner, as that it shall not for the future be in the power of the Presbyteries in Scotland to elude the same, in the manner they have hitherto done."

already committed causes which are to be brought before this Assembly, to lawyers who are members; allowance is hereby given to such members to execute what they have already undertaken."

*Case of Torphichen.*—Notwithstanding the injunctions of the two preceding Assemblies, (see pp. 156, 181) the Presbytery of Linlithgow had still refused to settle Mr Watson at Torphichen. Though the deliverance of the Assembly, 1750, had been laid before them on the 30th May, they delayed the consideration of it till the 22d August. "Then (we quote from the Presbytery minute, as given in the Appendix to the Commons' Report on Patronage, p. 45), the Presbytery having maturely considered the act and appointment of the General Assembly, appointing the ordination of Mr. James Watson to be upon the second Thursday of September next, and after reasoning on the affair at great length, agreed that the Moderator should ask at every minister present, whether they resolved to be at Torphichen in terms of the Act of Assembly or not, and the Moderator having accordingly put the said question to each of the brethren,—Messrs. Andrew Gloag, William Hasty, Robert Hunter, Robert Boyd, Alexander Wardrob and Thomas Wardrob, declared that *they were not resolved to be there*. Messrs. John Lookup, James Nasmith, Patrick Bennet, George Ellis and Henry Lundie declared that they were willing to go to Torphichen in terms of the aforesaid Act of Assembly. Mr. John Wilkie declared that he had a great regard to the sentences of Assembly, and *so far as he may have clearness*, would regard this sentence of Assembly, and Mr. Charles Wilkie answered, *that he did not think himself obliged to answer that question*. Then Mr John Adams being asked if he was willing to go to Torphichen and preside at the ordination, according to the said Act of Assembly, answered, it appeared from the tenor of the sentence of Assembly, that the particular appointment on him proceeded upon misinformation, as if it had been his course according to the custom of this Presbytery to preside at the ordination of Mr. James Watson, which being a mistake in fact, as appeared from the Presbytery minutes, he did not think the case so favourable as *to grasp at it out of his place*.—Whereupon the said Hugh Graham (writer in Edinburgh,

agent for Lord Torphichen the patron) represented, that notwithstanding the present resolution of the brethren, he hoped that those who were now against proceeding, would change their minds and obtemperate the appointment of Assembly; but in case the said Mr. John Adams and the Presbytery shall fail to execute the sentence of Assembly, he in that event, did in the name of the said Lord Torphichen and the callers of Mr. James Watson, protest and appeal to the next Synod of Lothian and Tweeddale, and thereupon took instruments."

The Synod referred the case to this Assembly, who took it up on the 15th May. The Presbytery rested their defence for non-obedience on the following points:—

"That they not only saw a strong opposition in the parish to that settlement, but a flame arisen in the country, which was likely to spread into their own parishes, if they should have an active hand in it, so as to scatter their congregations, and render them, in a great measure, useless as ministers of Christ, in pursuing the important ends of their ministry; and useless to the public, in recommending loyalty and good affection to our happy constitution and government, to the people under their charge; and therefore they could not have freedom in their consciences, to proceed to ordain and admit the candidate, in these circumstances.

"That they conceived it was perfectly agreeable to Presbyterian government, and the constitution of this Church, that the authority of all its judicatures should always be exercised in a subordination to the absolute authority of Jesus Christ, the only King of his church; and with a tender regard to conscience, of which God alone is Lord: and therefore *their* injunctions should never be arbitrary; nor such as might not be dispensed with, in any case whatsoever. And that the authority of the Church could never fall into contempt by such a gentle and tender exercise of it; but was rather likely to suffer by an immoderate and uncharitable stretch of it. And admitting that the sentences of the supreme judicature *must* pass into execution; this might be easily done, without bearing hard upon the consciences of any; as persons might be found to execute them, who were not in such circumstances, that their success and usefulness as ministers would suffer by their executing of them; and who



could, without violating their consciences, proceed to the execution of them."

Besides these general defences, a member of Presbytery (Mr. John Adams of Falkirk?) made the following speech in vindication of himself and his brethren at the Assembly's Bar\* :—

MODERATOR,—It is a disagreeable thing to be brought into a situation, which carries even an appearance of disregard to the order of the Church. A regard to the authority of the Church is, no doubt, a laudable principle; and will always have just weight with every good and judicious member of society, when under no difficulties, but such as that regard is able to conquer.

But that there can be no possible circumstances of any particular appointment, which may afford, if not a justifiable, at least an excusable ground of declining to execute it, is an assertion which will not stand cool examination. And, if the case be allowed but possible, it is ours in the present question.

It was never a question with us, that the final sentences of the supreme court must be executed: without a power to execute, as well as to appoint, we would have no constitution. It is to be observed, however, that it seems not at any time to have been the sense either of Church or State, "That absolute obedience to authority, in all possible cases, is so essential to government, as to be indispensably necessary to the support of the constitution"—nay, the wisdom and prudence of such as have been directors in both, lead us to this quite contrary conclusion, "That rigid insisting upon strict obedience, in some cases, tended to the hurt of the constitution; while moderation and lenity have been judged the securest measures of strengthening and supporting it."

Several instances to this purpose occur in the civil government, and not a few in the ecclesiastic, where, we may be

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\* I am indebted for the Report of this Speech to an anonymous correspondent of the Scots Magazine, (March 1752, p. 137), who assures us that "it was taken by so exact and careful a hand that it may be depended upon as a just and genuine account." Who the speaker was can only be matter of conjecture. I have ventured to assign the speech to *Mr. John Adams*, of Falkirk, (formerly of Dalrymple), Moderator of the Assembly in 1744, and a leading man, not only in the Presbytery, but in the Church, on what began to be called the *popular* side. He was the person who had been enjoined to preside at Mr. Watson's ordination, and was moreover a member of this Assembly.

allowed to say, it is at least as reasonable to expect them. With what other view did our supreme court, in former times, execute some of their sentences, by committees of their own, but to relieve presbyteries under straitening circumstances?—It is well enough known, that the exercise of our Church authority in these very instances, was directed by the counsels of such, as, without disparagement, we may venture to say, understood our constitution as well, and had it as much at heart to preserve good order, as any now among us.—Yet they never confined their aim to the single point of maintaining the authority of the Church; nor did they place either the essence or the excellency of our subordination, in the power of Church courts to distress their own brethren.—No; they placed it where it certainly lies, in the access which parties have, when they think themselves injured, to seek redress by appeals to the superior courts; who, no doubt, have power to take the execution, as well as the judgment, into their own hands, when particular circumstances point out the expediency of their doing so.—The harmony of the Church, and the peace of the country, came under consideration in the measures then pursued; and our Assemblies preserved their authority, by securing the execution of their sentences, while at the same time they preserved the subjects of their government, by the manner of executing them;—wisely forecasting the figure our authority will make, if we shall come to have no subjects but one another to exercise it upon.

Nor is it any just objection to the moderate measures of those times, that there were some then in the Church, who made a most unreasonable outcry, not only against the appointment of violent settlements, which might afford ground of demur, but against the manner of executing them, though the very best that circumstances permitted, and the native fruit indeed of the principles of charity and forbearance towards those who had not freedom to act any part in such settlements. And, truly, so far was it from being the prevailing spirit of those times, to compel either presbyteries, or particular members, to act in contradiction to the sense and persuasion of their own minds, that when the Secession happened, the Seceders were not able to found their breaking off from the Church upon any such hard terms of communion imposed upon them;

but were obliged to rest their Secession upon this most unjustifiable ground, That the Church did things which they, forsooth, could not approve of, and therefore they would not hold communion with her.

Now, if such moderate measures were judged necessary to preserve peace and union as much as possible in that period, can it be said, can it be thought, that there is less occasion for such prudential conduct *now*, when a formal Secession, which did not *then* subsist, has opened a door of relief to parishes who think themselves oppressed?—And this brings us to the precise point upon which the question turns, relating to the conduct of the Presbytery of Linlithgow.

When the General Assembly 1749 first appointed the settlement of Torphichen, the Presbytery resolved to go as far as they could, in obedience to the Assembly's order—took the candidate upon trials, which they did expedite, and went even the length of serving his edict,—that so it might appear, that the difficulties in the way of the settlement did not arise from any personal objections to the young man; and it is no more than justice to him to own, that nothing has cast up from any quarter to the prejudice of his character. But it appeared (after all proper pains and trials by committees to get matters brought to a situation a little more comfortable, than could be hoped from a congregation of five or six only, out of about a thousand examinable persons, whereof the parish is said to consist) that the universal opposition continued; and then, indeed, we unanimously agreed to represent our difficulties, from that cause, to the then ensuing Assembly, in hope of the relief which the prudence and moderation of former times had often given in such cases, and but very lately to the Presbytery of Glasgow, in the case of the settlement of Govan.\*

It is well enough known, that the difficulties and distress of our case were then set forth in so just and convincing a light, that, so far as we know, there was not a single member of that Assembly who moved to censure, or so much as to testify any disapprobation of our conduct, in not executing the order of the preceding Assembly 1749,—though some acknowledged that they had enter-

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\* See under the year 1747, and the Commission-Meeting in November of that year.

tained different sentiments before they heard the case.—When the last Assembly then had sustained the representation of our difficulties, so far at least as not to testify any disapprobation of our conduct, in failing to execute the order of the preceding Assembly, was it to be expected, that, in these circumstances, they would not have granted the wonted and petitioned relief? But in place of this, the order was renewed in a more peremptory manner than before, and that is the order which we are now called to account for declining to obey.

May we be allowed to ask what additional weight has the authority of last Assembly, to render our not executing their appointment more criminal in the eye of this Assembly, than they themselves had judged our declining to execute the order of the preceding Assembly 1749 to be? The only difference seems to be this:—The first Assembly, who appointed this settlement, laid their orders upon us in course, when our difficulties were neither so well known, nor so fully represented; and the last Assembly renewed the order, and refused relief, in the very face of our difficulties, so fully and strongly represented, as has been said. Is it to be supposed, Sir, that this Venerable Assembly will be so much higher than the last, as, for that difference, to judge our declining censurable?

We must own, that the appointment of the last Assembly, in the circumstances I have mentioned, appeared to some of us in a very odd light. It appeared as if the Assembly had resolved to adopt a new measure of conduct, and would oblige Presbyteries to execute their orders, without taking any thing into consideration but the authority of the court,—so as whatever scruples they might have; whatever persuasions of mind they might entertain of the rule of duty, relating to their own personal actings; whatever consequences they might foresee to attend the part they acted;—all was to be sacrificed at once to this single principle, submission to authority,—a principle, therefore, which must be enforced by threatenings, censures, forfeitures, and all the terrible engines of power. But are these means of enlightening the mind, when the question is, “What is duty?”—are these the arguments by which the ministers of Christ ought to ply one another? Besides, what must be the issue of these compulsive measures? Either such as have fortitude enough to adhere,



at all hazards, to what they are persuaded is the rule of their duty, must at length be turned out of the Establishment,—and will that be for the good of the Church? or the more timorous must be frightened into compliance, contrary to their own conviction of right, and sense of duty, in a particular case. Some might, perhaps, triumph in this effect, as the boasted success of church-authority duly exerted. But has it not a native tendency to weaken the power of conscience, the highest principle of human actions? Nay, have not these intimidating arguments a manifest tendency to debauch conscience? the very worst effect human power ever was, or can be applied to.\*

But, in support of this scheme, we have heard it reasoned by our brethren of higher constitution-principles than we can come up to, “That conscience has no concern in the orders of our superiors, but in obliging to obey them;—that no difficulties can come in the way of executing those orders, but such as any who are not very weak must see ought not to have any influence in such cases;—that the appointment becomes the rule of duty, and we can have no other;—that therefore scruples of conscience, in such circumstances, must be affected;—that the rights of private judgment have no place here;—we must see with the eyes of the Church; and if we say we cannot, no more is needful to clear our sight but a penal law affecting the stipend;—that we vowed obedience when we were received into the Church, and it is breach of faith to decline any command that is laid upon us.” As these are the lights in which the conduct we are now accounting for is viewed as culpable, it is necessary to take notice of them in our apology.

May it not be said in reply, “That if private judgment have any rights left under our Establishment, the first and most essential is, the right to determine what is a matter of conscience, and what not, in relation to one’s personal conduct? Withdraw this right, all goes along with it.”

It is true many scruples arise from weakness; but it is as true, that the light and persuasion of a man’s own mind is the immediate rule of his duty. To *act* contrary to this rule, is, by all acknowledgments, sinful in the sight of God. How then can declining such *acting* fall under the

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\* See Rom. xiv. 13—15.

censure of his Church, unless the servants claim a power to command what the master forbids? The object of Church-censure, one would think, must be something that is a *fault*. But where is the fault here? If there is any, it must be in the judgment. And so *weakness*, not *wickedness* or obstinacy, becomes the object of the censure.

All this reasoning applies to the case of scruples and difficulties arising from mere weakness where there is honesty. If honesty is suspected, it ought to be upon some just ground of suspicion; and then falsehood, or dissimulation, becomes a just object of censure, when fairly detected. But after all, why must the difficulties which may sometimes come in the way of executing a particular sentence of the supreme court be all ascribed to weakness? Is it indeed an infallible sign of a weak mind to imagine that the laws given to the Christian Church, by her Great Head and Lawgiver himself, are immediately binding on individuals, who therefore must be satisfied that the order of his servants, which they are required to obey, does not interfere with his superior authority? Let us look a little at a state of things, which may not be figured only, but is often a real case—nay is *our* case. A Presbytery sees a fire kindled by the appointment of a violent settlement in a particular corner; they are quite persuaded, that to take the execution upon themselves, would be to open a passage for the flame to spread through all their bounds.—They see ministers, useful in their office by living in good terms with their people, reduced to the miserable necessity of sacrificing their future peace and usefulness to the single principle of obedience to orders in a particular case; the case of committing a charge they have in trust, to one who can have no earthly prospect, to their apprehension, of being ever useful in that station. Thus, in place of watching over their flocks to feed and guard them, they find themselves employed in laying stumbling-blocks in their way, nay even exposing them to be misled by those who lie in wait to deceive. In the spread and progress of such measures, they see the ministers of the Established Church hastening to become an useless burden upon the society, useless at once to the religious and civil interests of the country. For it is abundantly obvious, though too little attended to, that it is in a great measure by the regards which we maintain in the hearts of our people,

that we are able to preserve any real influence among them; either as ministers of the gospel, for promoting their spiritual and eternal interests, which ought ever to be uppermost in our eye; or as friends to our happy constitution, in cultivating the true principles of government and loyalty.

Nor is the mere loss of the influence of ministers in these characters all that is to be dreaded. The commonalty, for whose service public teachers have in all ages been judged most necessary, and to whom the sphere of our usefulness is in a great measure confined, will, nay must, always have a *leading*. Upon the leading principles which govern them, the happiness of society, and the security of our most excellent constitution, have the greatest and most manifest dependence. Now, it is not a supposition, but a known fact, a fact confirmed by too many experiments, that the people no sooner withdraw their regards from the ministers of the Established Church, than of course they fall under the direction of one or other of the *separating* parties among us; *some of whom are well known to teach as wild and pernicious principles of government, as they do of religion.*

Are these consequences which none but weak men can be over-ruled by, in competition with a single act of obedience in a hard case? Are scruples and difficulties of this kind so insignificant, that the fear of losing a little stipend must be enough to set them all aside, if a penal law should be obtained for that end? Indeed, could it be supposed that any of our number took on the character of ministers of the gospel for sake of the stipend only, such no doubt would feel the force of that argument; but none who are not conscious of an irresistible power in money, can be capable of suspecting others of so sordid a disposition. Were there any ground for that mean supposition, we would afford juster occasion than we have yet done, to upbraid us with the love of money as our leading principle.

It is true, such as have no knowledge of the forementioned evils but what they take up from distant report, without seeing or feeling themselves, are ready to tell us, that if presbyteries would generally overlook the affections and objections of parishes in the settlement of ministers, and go clean through with their work, as they call

it, all disturbance would be soon at an end. Alas! that at best would be but a superficial cure. It is not improbable, indeed, that if it came to be generally the case, that no regard was had to the choice and inclinations of parishes in giving ministers to them, the people might at length drop open opposition; but the coldness and disaffection of their hearts would be increased, rather than abated, by that restraint; and *there* lies the bar to their edification.

The truth is, no sort of force seems to carry a greater incongruity to the nature of things, than to force a religious teacher upon people; who must always have their attention at their own disposal: and it is no less contrary to the spirit and intention at least, of the laws and civil constitution of our country, than to the interests of our holy religion, to bestow the provisions designed for public teachers, without any probability of service to answer the good ends of that establishment.

It remains to vindicate our behaviour in the present case, from the imputation of inconsistency with the regard due to our promised submission when we are ordained ministers, which is the most plausible objection to it.

It may be taken for granted, I suppose, that no body will maintain, that absolute and unlimited obedience is either required or promised in a Protestant Church. Absolute submission I understand, and admit to be required by our constitution and engagements. The effect of which is, an obligation to retire in a peaceable and respectful manner, when the judicatures of the Church declare any of her members incapable of continuing in communion, and enjoying the privileges of the establishment, for not conforming to the terms which they judge essential to the constitution. Rightly or not, is not the question here: it must be allowed, that they are the judges. Hence, mere difference of judgment may be a ground of exclusion from the privileges of an establishment, with which that difference is found to be inconsistent. But then that exclusion is not properly a censure, which must always have a *fault* for its object. It is really no more, than the declaration of the society, in whom the power of deciding is lodged, "That the person excluded comes not up to their terms of communion;" though perhaps in the right in differing from them.



This is the light in which we have fairly examined our present conduct. We are far from approving of a man's neglecting apparent duty, because that neglect may bring only a harmless rebuke upon him. We readily allow, that transgression of the laws, or neglect of the orders of the society whereof one is a member, ought never to be stated upon a slight ground; nor on any less solid foundation, than one could state leaving the society upon; if the judgment of those who have the power of admitting and secluding should so determine. In a word, if uniform obedience to authority in all possible cases shall come to be insisted upon as a term of communion amongst us, in order to distress either presbyteries or particular members who have not freedom to act in some circumstances; and that too when the nature of the thing and former practice point out methods of effectually executing final sentences which are not attended with those inconveniences; we could make no hesitation in our choice, betwixt peaceable *retiring*, if the Church-judicatures judged it proper to dismiss us, and *acting* a part in consequence of measures which, in our humble opinion, must not only prove hurtful, but ruining to our most valuable interests."

There was then long reasoning in the Assembly, both as to what judgment ought to be given with respect to the conduct of the Presbytery of Linlithgow, and what method was to be taken for making effectual the sentences of the two preceding Assemblies relative to the Torphichen settlement. An overture having been proposed, which contained a censure to be passed on the brethren of that Presbytery, several members declared against any censure, and others moved for a higher censure than that expressed in the overture. The question was therefore put, *Censure, or Not?* and it carried, *Censure*. Against which Principal Wishart entered his dissent,—to which twenty-one ministers and one ruling elder adhered. Some members having then moved for a sentence of suspension to be passed upon the disobedient brethren, the question was put, *Agree to the overture formerly proposed, or Suspend?* and carried, by a very great majority, *Agree*. The Assembly therefore came to the following resolution, in terms of the overture:—"That they are highly displeased with the Presbytery of Lin-

lithgow, for their not obeying the orders of the two last General Assemblies; and that the Moderator, in the Assembly's name, rebuke them at the bar for their said offence. And the Assembly do enjoin the Presbytery of Linlithgow, and, in concurrence with them, the committee hereafter named, to meet at the church of Torphichen, upon Thursday the 30th of this month of May, and then and there to ordain and admit Mr. James Watson as minister of the parish of Torphichen. But in case that Presbytery should again fail in their duty, and not be present at the meeting for the ordination, or should refuse to concur therein, the Assembly appoints the committee now to be named to proceed by themselves to Mr. Watson's ordination and admission, &c." The committee consists of fourteen ministers and four ruling elders, five of whom to be a quorum, three of these to be ministers.—The Presbytery were accordingly rebuked for their disobedience.

Principal Wishart, and the other dissentients from the first resolution (viz. "to censure"), gave in to the Assembly, on the 18th May, the following paper, humbly begging, that it might be read and recorded; and repeated their request, to be but allowed to read it, on the 20th. But the Assembly, without allowing it to be read, ordered it to lie *in retentis*.\*

*Reasons of the Dissent, entered on the 15th of May, 1751, from the sentence of the General Assembly, censuring the Reverend members of the Presbytery of Linlithgow, for not executing the sentences of former Assemblies, appointing them to ordain and admit Mr. James Watson minister of the parish of Torphichen.*

1. Whatever privileges the Church of Scotland has by law, these can never make her a merely voluntary, or merely legal society, so as to be governed only by rules of her own making, or only by civil laws, or by both together; but she must still be reckoned a part of the Church of Christ, of which he alone is Lord and King; and which has a government, appointed by him, distinct

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\* The reason assigned in the printed Index, for not reading it on the 20th, is, "in respect that at a former diet these reasons were ordered to lie *in retentis*." They will be found often referred to in the "Manifesto of the Moderate party," drawn up by Principal Robertson, and given under next year.

from the civil magistracy, and all the members of it are to be subject to his alone, absolutely and without reserve.— And, therefore, we think the censures of the Church are never to be inflicted, but upon open transgressors of the laws of Christ himself, its only lawgiver; nor can we think that any man is to be constructed an open transgressor of the laws of Christ, merely for not obeying commands of any assembly of fallible men, when he declares it was a conscientious regard to the will of Christ himself, according to the best of his understanding of it, that led him to this disobedience. And therefore, this decision of the Assembly seems to us a stretch of power, derogatory to the rights of conscience, of which God alone is Lord, and to the sole absolute authority of Christ in his Church.

2. We have always, from our first entrance into this Church, conceived, that Presbyterian government, as distinguished from all other forms of Church-government, consisted in the parity of pastors and subordination of Church-judicatures,—as it is described, both in the form of our subscription, and in the laws of our Establishment,—without implying that even the supreme judicature was vested with absolute authority or infallibility, or that an active obedience without reserve was to be given to its decisions,—which we could never imagine to be a principle tenable by any christian Protestant Church. Accordingly, our subscription, and engagement to obedience and submission to the judicatures of this Church, is with the express limitation of its being *in the Lord*,—that is, in such cases only as we judge not to be disagreeable to the Lord,—of which every man has an unalienable right to judge for himself, as he will be answerable to the Lord: a right which he cannot give up to any man, or society of men, because it is not merely his privilege, but his indispensable duty; whereas this sentence, and the reasoning in support of it, seem to imply, that not one instance of declining, in the humblest manner, actively to obey, can be tolerated in the Church.

3. Because we conceive that this sentence was by no means necessary to support the constitution and authority of the Church. These are well secured, so long as the execution of the sentences of the supreme court may take place in many different ways, without bearing hard on the consciences of such as do not see with the eyes of the ma-

majority ; or rather who think what is commanded, not only unlawful in itself, but sinful in them to execute.

WILL. WISHART, D.D., Principal of the College of Edinburgh.

GEO. LINDSAY, Minister at North-Leith.

JO. CURRIE, Minister at Kinglassie.

JO. BALLINGAL, Minister at Cupar.

ROBERT DRUMMOND, Minister at Auchterarder.

ALEX. STEDMAN, Minister at Tillicultry.

DAV. HUNTER, Minister at Saline.

JAMES SMITH, Minister at Newburn.

DAV. BLACK, Minister in Perth.

RO. BRYCE, Minister at Dron.

JOHN SPENCE, Minister at Orwel.

JOHN ANDERSON, of Middlerig, Elder.

ALEX. DICK, Minister at Dalry.

ALEX. MURRAY, Minister at Foulis-Wester.

HUGH GLAS, Minister at Kettle.

JAMES PORTEOUS, Minister at Monyvaird.

JA. OGILVIE, Minister at Aberdeen.

LAUR. HILL, Minister at the Barony of Glasgow.

JA. ROBE, Minister at Kilsyth.

JOHN LAWSON, Minister at Closeburn.

JOHN GLEN, Minister at Forgandenny.

R. WALKER, Minister at South-Leith.

JOHN SUTHERLAND, Minister at Golspy.

The person who moved the vote of suspension was *Mr. John Home*, of Athelstaneford, (the author of *Douglas*), seconded by *Mr. William Robertson*, of Gladsmuir, both delegates from the Presbytery of Haddington. It was the first time that either spoke in the Assembly ; and the latter took the opportunity of unfolding those principles of ecclesiastical government, which were next year acted upon in the case of Inverkeithing, and which formed the guide of his policy when he came to be established as leader of the dominant party ten or twelve years afterwards. On the present occasion, however, though he enforced his views “with extraordinary powers of argument and eloquence, and was most ably supported by Sir Gilbert Elliott and Mr. Andrew Pringle, (afterwards



Lord Alemoor,) he was left in a very small minority ; the house dividing, 200 against 11.”\*

Mr. Watson was settled on the 30th May by the committee appointed by the Assembly. The Presbytery do not seem to have been present as a body ; and when they next met (on the 3d October), though Mr. Watson was received and enrolled a member, “ Messrs William Hasty and Alexander Wardrob, with James Ure and Patrick Grahame, elders, insisted that it should be marked, that their sitting in Presbytery with the said Mr. James Watson should not be constructed as their homologating his settlement, and the clerk was ordered to mark the same.”

A protest signed by Mr. Thomas Tullideph, Principal of St. Leonard's College in St. Andrews, and Dr. George Haddow, Professor of Hebrew in the New College, against receiving a commission by the University of St. Andrews, to Mr. David Young, Professor of Philosophy therein, or enrolling his name, as a member of the Assembly, until the appeal taken from the Presbytery of St. Andrews, for attesting the said commission, be discussed, remitted to the committee to be named for revising commissions, and, in the mean time, Mr. Young was ordered to be enrolled as a member.†

An appeal was brought by Mr. John Sutherland, minister at Golspy, Messrs. Robert Kirk, James Smith, John Monro and Francis Robertson, four other ministers in the Presbytery of Dornoch, and the body of elders and communicants there, against a sentence of the Synod of Sutherland and Caithness, in relation to *the diets of worship at the time of celebrating the Lord's Supper*. The appellants represented, “ That, in June 1750, some ministers in the Presbytery of Dornoch entered into a concert (without consulting their sessions, or knowing the sentiments of the people) to change the fast-day before the administration of that Sacrament, from Thursday to Friday ; whereby the number of the preparation-days was abridged, Friday being usually employed by them in some

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\* Stewart's Life of Robertson, p. 14, 169.

† A committee was afterwards appointed “ to accommodate differences among all parties concerned.”

more or less public act of devotion\* : That, however, on the Thursday before the Sacrament at Larg and Kildonan, the people, not only of these, but of several parishes in the neighbourhood, repaired to these churches, and sent one or two of their number, earnestly entreating the ministers not to deny them the benefit of joining together in public worship ; but that their earnest solicitations had no effect on the minister of Larg, so that, after long attendance, many of the people withdrew : That a petition was offered to the Synod on the 12th of July, humbly setting forth what had passed at Larg, and representing the unhappy consequences that were likely to ensue, by creating a coolness betwixt private christians, as also betwixt several congregations and their ministers : That the Synod pronounced sentence, finding, ‘ That the petitioners, and such else of the people of the bounds of the said Presbytery as made any noise, or gave any disturbance, on occasion of the alteration complained of, have been highly to blame, not only in refusing to submit to regulations thought necessary by their ministers, but also in the noise and clamour they have raised, and the disturbance they gave to the administration of that holy ordinance, and the insults by some of them offered to their ministers : and, therefore, the Synod dismissed their petition, with a recommendation to their several ministers to labour to convince their people how far they have been to blame, and to teach them the submission due to their pastors in matters confessedly indifferent. And the Synod appoint this their sentence to be read from the several pulpits of the Presbytery of Dornoch, &c.’ And, That the clamour, disturbance, and insults, mentioned in this sentence, are contrary to fact, as the ministers declared in open Presbytery.”—A committee to whom this appeal was referred, gave in their opinion on the 18th ; which being read, was approved of, viz. “ The General Assembly judge, that this affair is not ripe for a decision ; and in the mean time declare they cannot approve

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\* It has long been the practice in the North Highlands, to hold a public *fellowship-meeting* on the Friday before the Sacrament ; at which elders and other laymen “ speak to the question,” in theology or christian experience, that may be proposed. The custom, however, has been thought by many to be of such pernicious tendency, that the object of the Sutherland clergy, in proposing to change the fast-day to Friday, was no doubt to get rid of the fellowship-meeting altogether.

of the judgment of the Synod of Sutherland and Caithness, censuring the elders and other petitioners, requesting the Synod to continue the fast-day before the Sacrament on Thursday as formerly ; and therefore discharge the intimation of that censure : and recommend it to all the ministers in the bounds of that Synod, to shew all tenderness to the sentiments of the elders and other well-disposed people under their charge, and to study to preserve unity and brotherly love with one another ; and further recommend it to all the people, to behave regularly and quietly, and shew all regard to their ministers ; and judge it inexpedient for that Synod, or the Presbyteries within their bounds, to appoint any general alteration of the diets of public worship at such solemn occasions, till that matter is taken under the consideration of the General Assembly.”

Some of the elders, members of the Presbytery of Perth, summoned to appear before this Assembly by the Commission in March, having sent letters of excuse, the Assembly, in respect of the peculiar circumstances of the case, dismissed the affair, (May 20.)

The same day, the following Act was adopted :—“ That the Assembly renew Act 11. 1712, appointing the *more frequent celebration of our Lord's Supper*. And in order to the better observance of the said Act, every Presbytery, at their privy censures before the winter Synod, shall inquire at each of their brethren, whether they have administered that Sacrament once at least the preceding year ; and in case any of them have not done it, their excuses shall be marked in the minutes, and what the Presbytery has done in approbation or disapprobation thereof, and report the same in writing to the Synod. And in case any member of the Presbytery should not be at the diet for privy censure, he shall send up his excuse in writing, either to that diet, or to the next ensuing Synod : and in case of brethren's failing in both the forementioned injunctions, that the Presbytery next after the Synod shall call such brethren to an account, and report to the next Synod, that they may do therein as they shall see cause.”

The General Assembly finding, that several of the presbyteries have not sent up any opinion to this Assembly concerning the *Psalmody*, notwithstanding a new edition with amendments, of the Translations and Paraphrases

of sacred Scripture was transmitted to them, do again transmit the same, requiring such presbyteries as have hitherto been deficient, to send up their opinions to the next Assembly; and in the mean time, the Assembly recommends the said Psalmody to be used in private families, and that Presbyteries be careful to have a sufficient number of copies of the said last edition thereof, within their bounds.

A sentence of the Synod of Fife, affirming a judgment of the Presbytery of Cupar sustaining a call by the parish of *Logie*, to Mr. Samuel West, probationer, to be their minister, affirmed, and the said Presbytery appointed forthwith to proceed to the ordination and settlement of the said Mr. West, as minister of the parish of *Logie*, (his trials having been taken, and edict returned without any objection.)

An overture transmitted by the Commission of the last General Assembly anent *unqualified Patrons* disposing their Rights of Patronage, for a single *vice*, or during their lives only, to persons in whom they can place trust, read, and ordered to lie upon the table till the next General Assembly.

A sentence of the Synod of Angus and Mearns, sustaining and concurring with a call by the town and parish of *Dundee*, to Mr. Gershom Carmichael, minister at Monnymail, to be one of the ministers of Dundee, affirmed.

An appeal in name of his Grace the Duke of Queensberry and Dover, patron, and other heritors of the parish of *Terreagles*, who had concurred with the presentation, and afterwards signed a call to the Reverend Mr. George Herron, minister of the gospel at Island Magee in Ireland, to be minister of the said parish of *Terreagles*, from a sentence of the Synod of Dumfries, delaying to judge in a reference made to them by the Presbytery of Dumfries anent the said settlement, read, and the affair remitted to the said Presbytery of Dumfries with a recommendation to them to proceed therein with all convenient dispatch.

A reference from the Synod of Dumfries of a cause brought before them, by appeal from a sentence of the Presbytery of Lochmaben, refusing to transport Mr. David Imrie,\* minister at *Dalton*, to be minister of the

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\* Mr. Imrie was rather a remarkable man in his way—an original thinker, but fanciful and inclined to mysticism, and withal a great student of unful-



parish of *St. Mungo*, heard, the said sentence reversed, and Mr. Imrie transported from the parish of Dalton to the parish of *St. Mungo*, and the Presbytery of *Lochmaben* appointed to admit him as minister of the said parish on the 20th day of June next, the moderator of the Presby-

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filled prophecy. He published a sermon, preached before the Synod of *Dumfries* (of which he became Clerk), October 11, 1748, which he announced in the preface to be a specimen of a work of a "pretty large compass," to be entitled, "An Essay towards discovering the *Great Wheel* that connects the human system with the universal kingdom of God." It is full of analogies between the works and word of God, in the manner of the *Hutchinsonians*. In 1755 a letter of his appeared, according to which "he has found," says a writer of the day, "by studying the scripture-calculations, that the Jews will be converted, and restored to their own land, within seven or eight years from the year 1754; that they will have an anointed prince of their own, a mortal one, over them, about 1771 or 1772; that they will be invaded in their own land, their prince cut off, and their city and sanctuary once more demolished, about 1777 or 1778; and that they, as well as the whole people of Christ, will remain under a cloud for a time, but all will be brought to rights again, by the pouring forth of the last plague on the adversaries of Christ, and at length by that total final destruction which the prophet calls *the great day of God's wrath*, about the year 1794; so that within forty years will be accomplished the inbringing of the fulness of the Gentiles, and that long and blessed period, when peace, righteousness, and felicity, are to flourish over the whole earth, will begin: but that there is a long train of judgments coming on the earth more dreadful than ever it yet beheld; that they will begin before the end of seven years hence, and go on in a continued train till the end of the forty years; and that two-thirds of mankind will be cut off by these judgments, and one-third preserved by the preternatural assistance of angels." It is but fair to add, however, that in the *Edinburgh Courant* of July 14, 1755, there is a letter from Mr Imrie, complaining of this letter having been printed without his permission, and of its being full of blunders, and promising to publish a book on the subject, which, however, I suspect, never appeared.

Mr. Imrie was a correspondent of Dr. Erskine, whose biographer thus speaks of him:—"While Dr Erskine remained at Culross, he had another remarkable correspondent; Mr. David Imrie, then minister of Dalton, and afterwards of *St. Mungo* in *Dumfries-shire*. He was a man of very considerable abilities, and was capable of a great degree of literary industry and research. Several years of his life were employed in the study of the prophetic scriptures, in which he believed he had made some important discoveries with regard to events predicted, both in the Old and in the New Testament; which, he persuaded himself, were to happen within a very few years of the time when he applied his mind to the subject. Mr. Imrie lived to see many of the minute interpretations, in which he had most confidence, contradicted by events. He would have contemplated with amazement other events which have happened since his death, in which his conjectures and interpretations would have appeared to him to have been very near the truth, though they were not completely verified. The events, in particular, of the year 1794, (a year which he had expressly mentioned as introducing most remarkable revolutions,) though not precisely what he had supposed them, had so much apparent affinity to his representation, as would, if he had witnessed them, have gone far to confirm some of his most sanguine anticipations."—*Moncrieff's Life of Erskine*, pp. 226, 229.

tery, for the time being, to preach at his admission, and the Church of Dalton to be declared vacant the Sabbath thereafter.

The sentences of the Presbytery of Chanonry, and Synod of Ross, sustaining a call by the heritors and elders of the parish of *Cromartie*, to Mr. James Robertson, probationer, to be their minister, affirmed, and the said Presbytery appointed to proceed to his trials and settlement as minister of that parish with all convenient speed, according to the rules of the Church.

The Commission empowered to cognosce and finally determine in any reference or appeal, that shall be brought before them, concerning the transportation of Mr. Andrew Richardson, from Broughton ; or his admission at *Inverkeithing*.

The report of the committee named on Thursday last to consider the reference from the Presbytery of Edinburgh, for advice with respect to *the receiving the minister of the Castle of Edinburgh, as a member of the Presbytery*, brought in, containing an overture, that the Assembly advise the Presbytery of Edinburgh to receive and admit Mr. John Johnston, minister of the Castle of Edinburgh, to be a member of the said Presbytery ; and the Assembly not having time to consider the same, ordered, that it be signified to the Presbytery of Edinburgh, that a committee of the Assembly had given their opinion above mentioned, which the Presbytery may have under their consideration, and follow it or not as they see cause.

A reference from the Synod of Lothian and Tweeddale, of a cause brought before them by appeal from the Presbytery of Biggar's sentence in the settlement of the parish of *Biggar*, pronounced in April last, *viz.* that in the present circumstances, they could not proceed to the settlement of Mr. William Haig, the presentee, and that the honourable patrons be applied to, to ease the Presbytery in this matter, read,—and it being represented, *that there was no concurrence with the presentation, of any who reside in the parish, save one*, the Assembly found, that in the present circumstances *it is not expedient to appoint the settlement of the presentee*, and remitted to the Presbytery of Biggar to deal with all concerned in order to bring about a comfortable settlement of the said parish.

A complaint of certain members of the Presbytery of

Irvine, dissenters from a judgment of the said Presbytery declaring themselves satisfied with a letter from the Earl of Eglington, patron of the parish church of *Irvine*, respecting a presentation granted by his Lordship to Mr. Charles Bannantine, minister at Kilmorie in Arran, to be minister at Irvine, dismissed.

The report of the committee appointed to consider the representation from the Kirk-session, of *St. Ninians*, and other representations or instructions relating to the power of Kirk-sessions, *in the management of the poor's money*, brought in, and the Assembly recommended to the ministers of each parish to deal with their heritors to set about the maintenance of their poor, respectively, and the repressing vagrant and idle persons and vagabonds; and to Presbyteries to apply to the sheriffs of the several shires, within which their Presbytery seats do lye, to put the laws with respect to the maintenance of the poor, and repressing vagrant persons and vagabonds, to due execution. The Kirk-session of *St. Ninians*, at their first meeting, authorised to make a minute, ordering the minute insert in their records by the heritors of *St. Ninians*, bearing, "that these were the books produced by the Session-Clerk of *St. Ninians*, to the general meeting of the heritors of that parish, to which their minute related," to be expunged out of their said books; and in case any unreasonable process shall be brought by the heritors against the minister and Kirk-session of *St. Ninians*, it is recommended to the procurator and agents for the Church to attend to the same, and any other cause of the like nature, as being of public concern. The minister and Kirk-session of *St. Ninians* allowed to apply to the neighbouring Synods, who have parishes in the like circumstances for voluntary contributions, at their several parish church doors, for defraying the expense of such processes, and the Commission is empowered to consider what may be further necessary in this matter, and report to the next Assembly. [See the case of *Humbie* at p. 187.]

The Commission empowered to cognosce and finally determine in any reference or appeal that shall be brought before them from the Synod of Fife, with respect to the sentence of *deposition* passed by the Presbytery of *St. Andrew's*, against John Duncan, tenant in Causeway-head, and one of the *elders* of the parish of *Forgan*.

It appeared that in consequence of the recommendation of last Assembly, upwards of £900 sterling had been collected for the church at *Breslau*.—A letter of thanks was received by the present Assembly.

Reference to the Commission to consider an overture from the Synod of Glasgow and Ayr, respecting the disorderly practices of *clandestine marriages*, and the bad consequences thereof, and to do what they can to prevent such practices.

Reference to the Commission to take under consideration an account concerning the state and increase of *Popery* in some parishes in the bounds of the Presbytery of *Dumfries*, and to do therein as they see cause.

The Overtures about Presbyteries neglecting to send their opinions on the overtures transmitted to them by the Assembly,—about licensing probationers,—and about processes against probationers, are all retransmitted.

The Assembly rose May the 20th.\*

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#### COMMISSION MEETING IN NOVEMBER.

IN consequence of a reference from the Assembly, and of representations laid before the Commission by several members, setting forth, That the practice of *irregular marriages* (*i. e.*, without due proclamation of banns) is of late become so common,† and is attended with such

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\* At the desire of the crown-lawyers (in consequence of an order of the Lords of Justiciary), the Clerks of Assembly this year transmitted copies of the *Act anent murdering of Children*, 1690, with a letter to the Moderators of all the Presbyteries in Scotland, requesting them to cause it be read from the pulpits within their bounds respectively, “that all the lieges may avoid the danger which several unfortunate persons have lately fallen into from their ignorance of it.” It was an Act which made the concealment of pregnancy a capital crime, but it has since been repealed.

† One of the most active instruments in promoting these irregularities, was David Paterson, once a probationer of the Church, of whom a notice will be found at p. 44, *note*. Another was the person mentioned in the following paragraph:—“Mr. George Craighead, who is, or pretends to be an English dissenting minister, but a Scotchman, and who has kept a meeting-house in Edinburgh upwards of a twelvemonth, was tried lately before the Court of Justiciary, for celebrating a marriage clandestinely, on the 21st of August last (1749); the crime aggravated by the man’s having another wife still living, and the pannel’s falsifying his own name in the marriage-lines, which he signed, ALEXANDER LYON, MINISTER. On return of the jury’s verdict, Feb.



fatal consequences, by innocent parties being drawn in to intermarry with persons having husbands or wives in life, or to their own great prejudice and grief of their parents on other accounts, that it is highly reasonable for the Church to interpose;—the Commission appointed an abstract of the laws now in force against such marriages to be printed, and published from the pulpit by all the ministers of the Church, on or before the last Sabbath of March, 1752; and enjoined the several Presbyteries and ministers to procure those laws to be put to execution, not only by insisting for the fines, of which one moiety goes to the poor of the parish, but also for inflicting the other penalties; and to report their diligence to next Assembly.

The following is the abstract that was circulated:—  
“By these laws it is, *inter alia*, enacted, That whoever marries in an inorderly way, shall be imprisoned for three months, and, besides, shall pay, noblemen £1000, gentlemen and burgesses £500, and every other person 100 merks, and remain in prison till they pay, the fine to be applied to pious uses in the parish; that the celebrator shall be banished, not to return under the pain of death; that none of the parties, where both reside in Scotland, get themselves married in England without proclamation

6, 1750, finding the pannel guilty of the crimes libelled, the court sentenced him to be banished Scotland from and after the 1st of March next, never to return on pain of death, and dismissed him from the bar.”

Not long before the meeting of the Commission there had occurred the trial of “Thomas Gray and James Syme, merchants in Edinburgh, and Christian Duncan, milliner or mantua-maker there, accused of having accomplished, by force and violence, a marriage between the said Thomas Gray and Jacobina Moir, only child and heir of the deceased James Moir of Earnslaw, the seducing her from her mother’s house at Canonmills, first to Leith, and then to Musselburgh-sands—and causing the ceremony of marriage be performed in a hackney-coach on these Sands, without her consent and against her will; afterwards compelling her to sign a certificate of this forced marriage in a public-house at Jock’s Lodge, &c.” Mr. Thomas Brown, *late minister of Kinettles*, but deposed for irregularities, who assumed the name of William Jamieson, and celebrated the marriage, was also tried along with them. Gray, Duncan, and Brown, were sentenced to fourteen years transportation; Syme to a fine of 500 merks, and three months imprisonment. As there was no positive statute-law in Scotland relative to the crime of abduction, the public prosecutor founded on the Roman law, the practice of England, France, and other countries, and the *divine law*, as contained in Exod. xxi. 16, Deut. xxiv. 7, (“*He that stealeth a man and selleth him,*” &c.) “which texts,” he alledged, “are understood by lawyers and divines to comprehend the present case.”—It fared worse with Robert Macgregor, son of Rob Roy, who was capitally convicted of a similar offence, two years after, and was executed on the 6th Feb. 1754.

of banns in Scotland, under a penalty of £1000 a nobleman, 1000 merks a landed man, £500 a burgess, 500 merks each other substantial person, £100 a yeoman, and 100 merks each inferior person, half to the King, and half to the parish; that the King's Advocate, or the procurator for the Church, pursue contraveeners; and that such as are unable to pay, be punished with stocks and irons; and all without prejudice of the kirk-censures. Act 34, 1661.—That persons irregularly married shall, when required, declare who celebrated their marriage, and who were witnesses, on pain, in case of refusal, of £2000 a nobleman, 2000 merks a baron or landed gentleman, £1000 a gentleman or burgess, and 200 merks every other person, and of imprisonment till they so declare, and till they pay the penalties respectively above-mentioned; that such witnesses shall be liable in £100 each; that all these penalties shall be applied to pious uses within the parish; and that the celebrator may be summarily seized by any magistrate or justice of the peace. Act 6, 1698.—That execution may proceed, on the Acts against irregular marriages, at the instance of the parties concerned, or of the procurators-fiscal of the jurisdictions where they shall be questioned. Act 12, 1695.—That whoever marries two wives, or two husbands, shall be subjected to the pains of perjury, by confiscation of all their moveable goods, imprisoned for a year and day, and, as infamous persons, never be able to bruik office, honour, dignity, or benefice, in time to come. Act 19, 1551.—And it is observed, that if such persons continue wilfully to cohabit together, they are subjected, amongst others, to the pain of death, as notorious adulterers,\* by Act 105, 1581, which enacts, That it shall be judged, in law, notour adultery worthy of the pain of death, where bairns are procreate; or the adulterers keep

\* There are instances of trials for *adultery*, in the Scottish criminal courts, down to a comparatively recent period. At the Stirling Circuit Court in September, 1752, William Douglas and Janet Maclaren were tried for adultery, and found guilty, but the guilt of the latter more highly aggravated than that of the former. The woman was sentenced to be whipped, and banished to the plantations for life, and the man to be banished Scotland for three years. At the Inverness Circuit Court, in May, 1766, *Mr. William Nisbet*, minister of Firth and Stenness in Orkney, being found guilty of adultery, was sentenced to two months imprisonment (to be fed on bread and water), and then to be transported for life. The state of morals and discipline in Orkney at that period may be judged of from the fact, that when a complaint had been brought against him before the Synod in 1764, they thought it enough to "appoint him to remove the woman in four months."

company and bed together, notoriously known ; or when suspected and duly admonished, they refuse to satisfy the kirk by repentance or purgation, and are excommunicate for their obstinacy,—each of which three degrees of adultery subject the persons guilty to the pain of death.”

It was at this meeting that the *Settlement of Inverkeithing* (which ultimately laid the foundation of “the Relief”) began to assume a serious aspect.

Mr. Andrew Richardson, minister of Broughton, in Peeblesshire, had been presented by Captain Philip Anstruther to the parish of Inverkeithing, which became vacant by the death of Mr. Allan Buchanan, on the 8th March, 1749 ; and in the month of October of that year certain heritors, elders, magistrates, and town-councillors, joined in a call to him, which after some litigation was sustained, without a vote, by the Commission of the Assembly, on the 23d May, 1750 (see p. 182). Some difficulties and delay took place in obtaining his transportation from Broughton, by the Presbytery of Biggar, but this was at length effected (in consequence of a judgment of the Synod of Lothian and Tweeddale, substantially affirmed by the Commission of the Assembly,) on the 30th of May, 1751.

On the 5th of June, the promoters of Mr. Richardson's settlement appeared at the Presbytery of Dumfermline, and laying before them the act of transportation, craved the appointment of a day for his admission. The sequel we give in the words of the minutes of Presbytery, which will be found at length in the Appendix to the Commons' Report on Patronage, p. 61. “As some of the gentlemen who appeared in support of the petition represented that they have good reason to believe some in the parish are disposed to signify their willingness to submit to Mr Richardson's ministry, when he shall be settled among them, the Presbytery, without a vote, agreed to delay giving any judgment in the case at present, and in the meantime to appoint Mr Stark at Torryburn, Steedman, Thomson and Spence, or any two of them, as a committee, to meet with the elders and town councillors of the parish and burgh of Inverkeithing, in the house of Messrs. Roxburgh there, on Wednesday next, at eleven of the clock forenoon, in order to receive documents of such

willingness to submit to Mr Richardson's ministry, and to converse with the elders and town council for promoting peace and harmony in the present case ; also to learn from the elders the sentiments of the congregation, and report to next meeting."

The Report was as follows :—" Inverkeithing, June 12th, 1751. Mr. Robert Stark, minister at Torryburn, and Mr James Thomson, minister at Dumfermline, met in consequence of the Presbytery's appointment, and the appointment itself for that purpose was read.— The following elders first waited upon them; Henry Arnot, Henry Brown, Andrew Turnbull, George Dundas, James Gibson, John Barron, David Currie. Those present represented that the two Charles Greigs and Edward Brown are all from home upon voyages at sea. The committee reasoned with those present for some time, after which they asked their sentiments with respect to their clearness and willingness to submit to the ministry of Mr Richardson, when he shall be settled among them. James Brown answered, that, *for anything he knew or thinks at present*, he cannot submit. David Currie answered, *that he could never yet get the length as to see it his duty to submit*. John Barron answered, that after considering a great deal on the subject, he cannot at present think he will submit. James Gibson answered, that he is not at present minded to submit. George Dundas answered, *that at present he has no light to submit*. Andrew Turnbull answered, that he is willing to submit. Henry Brown answered, that at present he has no light to submit. Henry Arnot answered, that he cannot submit till the Lord give him further light. Then the committee asked them severally if they had conversed with the people of their different quarters since the appointment of the Presbytery at their last meeting. All of them, except George Dundas and Andrew Turnbull, answered that they had not. As to George Dundas, he said he had conversed with a good many, and they all expressed themselves to be of the same sentiments as formerly. Andrew Turnbull said he had conversed with several, all of whom signified their willingness to submit. This, having twelve words elided in different places, is signed in presence of the said elders, by (signed) Robt. Stark, James Thomson.



Afterwards the whole town council waited upon the committee, except Mr John Cant, Mr. John Cunningham of Balbougie, John Kirkaldie, present dean of guild, James Taylor, Couper, and Charles Hodge, deacon of the Baxters, as also Charles Greig and Andrew Roxburgh, who were from home on a voyage at sea. The committee reasoned for some time with them: then they asked at all those who had not formerly declared for Mr Richardson to be minister at Inverkeithing, whether they are now willing to submit to his ministry when he shall be settled among them. They all declared themselves as follows; viz. George Kellock, deacon of the weavers, who said he is willing to submit; Adam Deas, deacon of the tailors, who said *he is not at present determined whether he will submit or not*; and Robert Kellock, weaver, who said *he does not know whether he will hear him or not, but he is sure it will be a good time before he hear him*; and Andrew Small, deacon of the shoemakers, who said he will not hear him, *unless he get other light* than what he has yet got; and Robert Brown, brewer, one of the present bailies, who said *he is not at present determined whether he will submit or not*; and John Anderson, who said the same; also, William Thomson, watchman, Bailie Robert Brown, shipmaster, William Hochhart, deacon of the hammermen, David Rankin, salt officer, and Treasurer Chapman, all declared themselves unwilling to submit. This, having six words elided, and sixteen words interlined, is subscribed in presence of all the magistrates and town councillors, except David Rankin, (signed) by Robert Stark, James Thomson."

At the meeting of Presbytery (31st July) at which this Report was given in, Mr. Wm. Walker, town-clerk of the burgh, and Mr. Richardson's agent, presented a paper signed by 22 heads of families, signifying their willingness to submit to Mr. Richardson's ministry.—"The Presbytery, after reasoning, found that their admitting Mr. Richardson as minister of Inverkeithing, in the present circumstances of that parish, would be of hurtful consequence to the interests of religion within their bounds, and that the matter is attended with such difficulties as they cannot get over; and therefore they resolved humbly to request the very reverend the Commission of the General Assembly to take such methods for their relief

as to them in their great wisdom shall seem meet. Upon this, Mr. James Thomson craved it might be marked that he has not the same view of the case with the Presbytery, and therefore cannot join in such a request to the Commission of the Assembly; to which Mr James Bathgate declared his adherence. Mr Liston craved that it might be marked that *he would fain hope the admission of Mr. Richardson to be minister at Inverkeithing would not be attended with such bad consequences as mentioned in the Presbytery's resolution.*"

The matter went by appeal to the Synod of Fife, who, on the 26th September, after long reasoning, agreed, by a large majority, to signify their dissatisfaction with the Presbytery, for not obeying the orders of the Commission in May 1750, and appointed them forthwith to proceed to Mr. Richardson's admission.

When the Presbytery next met (16th Oct.), and were called upon to give effect to this sentence, "after they had reasoned long upon the matter, Mr Thomson proposed that a vote should be put, '*Obe*y the sentence of the Commission of the General Assembly and of the Synod of Fife, as to the admission of Mr Andrew Richardson to be minister at Inverkeithing, or *Not*,' in which proposal he was supported by Mr Bathgate; others proposed that the state of the vote should be '*delay*, and *represent* to the Commission of the General Assembly their reasons for so doing, or *not*.' As neither side chose to pass from the proposals they had made, the question was put, whether the first or second of these two states of the vote should be put; the rolls being called and votes marked, it carried by a great majority: "*the second*," upon which Mr Thomson craved to be marked his dissent from this determination as being upon the matter a refusing to obey the said sentences, which, in his opinion, is destructive of all government, contrary to the subordination of judicatures established in the Church of Scotland, and tending to distract the minds of private christians, and disturb the peace of the country side; to this dissent Mr Bathgate declared his adherence. Then the second state of the vote before mentioned was put, and it carried *delay* and *represent*. Accordingly the Presbytery agreed to represent as follow, viz. that it gives them extreme concern that they should be straitened to obtemperate the

appointment of the Venerable Commission of the Assembly and Synod, which they would judge their indispensable duty not to shift when they had freedom of mind to execute, but that such are the difficulties which lie in their way, and such the consequences, that in their view would follow thereupon, affecting not only the interests of religion in that corner, but also more extensively that they rather choose to represent this their strait to the Venerable Commission, and to submit to their displeasure than to proceed in such an embarrassing situation."

It was at this stage that the cause came by appeal\* and dissent before the present meeting of the Commission, who took it up on the 14th November, and gave judgment as follows :—" Parties were called, and compeared for the patron and other callers of Mr Richardson, Messrs. Archibald Murray and Gilbert Elliot, advocates, and for the Presbytery of Dumfermline, compeared Messrs. David Hunter and John Spence, ministers, members thereof, to defend their conduct. Parties being fully heard, and Mr. James Thomson, who dissented from the sentence of the Presbytery, being also heard, they were removed. The Commission having fully reasoned upon this affair, it was proposed to come to the following resolution: viz. to appoint the Presbytery of Dumfermline to admit Mr. Andrew Richardson as minister at Inverkeithing on a certain day, and the moderator of the Presbytery to preach and preside at the admission, with certification. But several of the Commission being against this, and particularly the appointing the moderator of that Presbytery, viz. Mr. John Spence, to preside at the admission, in respect of his special situation, being settled at Orwell, *where a seceding minister was deposed*, it was agreed to put the question, '*Approve of the said proposal or not;*' and the roll being called, and votes marked, it carried *approve*. And therefore the Commission did and hereby do appoint the Presbytery of Dumfermline, to admit the said Mr Andrew Richardson as minister at Inverkeithing on the third Wednesday of January next, and the present moderator of that Presbytery to preach and preside at his admission; and in case he shall be necessarily absent through sickness, or otherwise, the Presbytery are

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\* The *Reasons of Appeal*, and the Presbytery's Answers, will be found in the Patronage Report, Append. p. 64.

hereby enjoined to name another to do it, with certification that the Commission will at their meeting in March next proceed against them *to very high censure* in case of their disobedience. Parties being called in, the above sentence was intimated to them; whereupon Mr. Archibald Murray, in name of his constituents, took instruments in the clerk's hands. But Mr. David Hunter and Mr. John Spence protested for liberty to complain of the above sentence of the Commission to the ensuing General Assembly, and thereupon took instruments; and the following members entered their dissent therefrom, and also took instruments, viz. Messrs. James Robe, John Currie, John Adams, George Lindsay, James Stirling, Robert Bryce, James Smith, James Miln, and David Connell, ministers."

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1752.

## COMMISSION MEETING IN MARCH.

THIS meeting was rendered memorable in the annals of the Church, by the two parties (who began to be distinguished by the names of *moderate* and *popular*) coming into more direct and violent collision than ever, in reference to the question—"How far are the members of inferior judicatories bound to give effect to the sentences of superior courts, in opposition to the dictates of their own private judgment and conscience?"

This question arose out of the *Inverkeithing* case, the details of which, subsequently to the meeting of the Commission in November 1751, we here resume:—

The Presbytery met on the 18th December, when the patron's agent produced an extract of the judgment of the Commission, and called on the Presbytery to comply with its injunction.—The following was agreed upon as the Presbytery's answer to this requisition (Messrs. Thomson and Bathgate dissenting):—"After long reasoning, it appeared that the whole Presbytery except two were straitened to proceed in terms of Mr. Walker's demand. At the same time, the members went on different principles ;



some, though straitened themselves to execute the appointment of the Commission, declared they would lay no bar in the way of their brethren who had clearness to proceed; others chose to say they were not clear to proceed to the settlement as matters stood at present. One declared it as his sentiment, that he could not actively concur in admitting Mr. Richardson minister at Inverkeithing in the present circumstances, and at the precise time fixed by the Commission."

From this judgment, the agent for the patron appealed\* "to the Commission of the Church to meet in March, or to the General Assembly, whichever of them may first happen to meet."

The Presbytery had another meeting on the 19th Feb. 1752, when they came to the following resolution, *viz.*: "It being probable that the affairs relating to the settlement of Inverkeithing, in which this Presbytery is interested, will be before the Commission of the General Assembly at their next meeting, therefore the Presbytery adjourned to the *British Coffee-house* at Edinburgh, to meet there at 10 o'clock forenoon, on the second Wednesday of March next, being the day on which the Commission is appointed to meet." They accordingly met on that day; and "having read their sentence, passed on the 18th day of December, relating to the affairs of Inverkeithing, and apprehending that that part of it, *viz.* 'that the members went upon different principles,' may appear not so clear to the Venerable Commission, they authorised their Moderator to inform the Commission that what they intended by that expression was, that the different members not agreeing to explain their strait in the same form or manner of expression, chose to have it there declared in their own words, as the after-part of the sentence shows."

The Commission met on the 11th of March, when a petition was presented in name of the patron and others, callers of Mr. Richardson, complaining of the Presbytery for not executing the sentence of the November Commission, and craving that they might be censured, and Mr. Richardson's settlement made effectual.

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\* His new reasons of appeal (which are substantially the same as before) are in the Appendix to the Patronage Report, p. 68. In the same document at p. 67, the reader will find a paper given in to the Presbytery by Mr. Stark of Kinross, who endeavoured to steer a middle course between the two parties.

The members of the Presbytery, with all humility and submission, owned before the Commission, "That the authority of the supreme court, once interposed in the decision of any settlement, takes away the right of inferiors to oppose it. But allowing that, in some cases, the orders of superiors might be innocently executed by those who cannot approve of them, would it be said that they might do this in all cases? and that it is absolutely necessary for the preservation of the constitution, to force this rule into universal practice, That inferiors must execute the appointments of their superiors, in whatever light they appeared to them, of right or wrong, of sin or duty? Withal they acknowledged, it would be an unaccountable perverseness of spirit in them, to incur the displeasure of their superiors, by disobeying their orders, without necessity. But what conduct of theirs had ever given occasion once to suspect them of such a strong cast of mind? They heartily wished they could view all the decisions of their superiors in such a light, as that they could be themselves the active executors of their appointments. In the present case they had seriously weighed the matter; and after doing so, they might be allowed some capacity of judging, so far as concerned *their own actions*, what might be the most likely methods of preserving or destroying peace, and promoting or marring the success of the gospel in *their own bounds*. And if they had not been persuaded, upon deliberate thought, that their complying with the injunction of the last Commission would do more hurt than good, they would not have so much as lingered in the execution of the appointment: and in saying so, they hoped they had the same right with other men of character for common honesty, to be believed sincere. They plainly saw, that the most likely consequence of their having an active hand in that settlement, would be the marring of their success and usefulness in their ministry; and so would turn to the hurt of the people committed to *their* care in their most important concerns: and they could not think of knowingly having an active hand in such unhappy consequences. Nor was it easy for them to support themselves with this reflection, That they had acted in obedience to their superiors; and that it was properly the deed of their superiors not theirs: they could not feel great weight in such a distinction, to determine their conduct."

The Commission agreed *nem. con.* that they had power at this meeting, to carry the sentence for Mr. Richardson's settlement into execution, and to judge of the conduct of the Presbytery, and then adjourned. At the afternoon sederunt, a motion was made, to refer the whole affair to the ensuing Assembly. This was contended to be inconsistent with the proceedings above recited which had taken place in the forenoon. The question was, however, put, *Refer or Not* and it carried, *Not*. It was then resolved to determine with respect both to the execution of the sentence, and the conduct of the Presbytery. They began with the latter; and, after reasoning, the question was put, Whether considering the whole affair, particularly the defences offered for the Presbytery at the bar *viva voce*, and in their answers to the complainers reasons of appeal\* the Presbytery should be *censured* or *Not*? and by a small majority it carried *Not*. Messrs. William Robertson, John Home, John Jardine, Hugh Blair, Matthew Reid, Peter Simson, Abraham Hume, ministers, and the Master of Ross, the Lord Provost of Edinburgh, Messrs Alexander M'Millan, Andrew Pringle, Joseph Williamson, Robert Pringle, William Halawel, and Dr. Whytt, ruling elders, craved leave to enter their dissent from this judgment, and to complain of it to the next Assembly, promising to give in their Reasons of Dissent betwixt and the 20th of April. Then the Commission, without a vote, appointed the Synod of Fife, at their next ordinary meeting, to adjourn to Inverkeithing, in order to Mr Richardson's settlement there, on any day most convenient betwixt and the 1st of May, and to report their proceedings to the next Assembly. Next day Mr Geo. Logan of Ormiston, and Dr Martin, ruling elder, adhered to the dissent; and the Commission appointed Mr Jas. Mackie, Moderator, Principal Wishart, Messrs John Adams, Laurence Hill, George Lindsay, Robert Walker, and Alexander Steadman, ministers, and Mr Albert Munro, ruling elder, a committee to draw up Answers to the Reasons of Dissent.

As the Reasons of Dissent from this judgment of the Commission, and the Answers to those reasons, are the

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\* These will be found substantially embodied in the second document that follows.

most authentic documents extant, of the general principles of the two great parties into which the Church became divided, and were drawn up by the leading men on both sides, we shall here present them entire.

The "Reasons of Dissent" may be described as *the Manifesto of the Moderate Party*—of which Dr Robertson, (who was at this period Minister of Gladsmuir), afterwards became the acknowledged head. "This paper"—says Principal Hill,\* "though evidently a hasty composition, bears, in various passages, the marks of Dr. Robertson's hand."

*Reasons of Dissent from the judgment and resolution of the Commission, March 11, 1752, resolving to inflict no censure on the Presbytery of Dunfermline for their disobedience in relation to the settlement of Inverkeithing.*

1. Because we conceive this sentence of the Commission to be inconsistent with the nature and first principles of society. When men are considered as individuals, we acknowledge that they have no guide but their own understanding, and no judge but their own conscience. But we hold it for an undeniable principle, that as members of society, they are bound in many cases to follow the judgment of the society. By joining together in society, we enjoy many advantages, which we could neither purchase nor secure in a disunited state. In consideration of these, we consent that regulations for public order shall be established; not by the private fancy of every individual, but by the judgment of the majority, or of those with whom the society has consented to intrust the legislative power. Their judgment must necessarily be absolute and final, and their decisions received as the voice and injunction of the whole. In a numerous society it seldom happens that all the members think uniformly concerning the wisdom and expedience of any public regulation: but no sooner is that regulation enacted, than

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\* In that portion of *Stewart's Life of Robertson*, which relates to Church-politics (p. 158—176), which was drawn up by Dr Hill, and communicated to Mr Stewart, after being revised and approved by three of Dr. Robertson's most confidential friends—Drs Blair, Carlyle, and Grieve. Dr Hill repeatedly refers to the above paper, as embodying the great principles of ecclesiastical polity professed by the party in the leadership of which he succeeded Dr Robertson.



private judgment is so far superseded, that even they who disapprove it, are notwithstanding bound to obey it, and to put it in execution, if required; unless in a case of such gross iniquity and manifest violation of the original design of the society, as justifies resistance to the supreme power, and makes it better to have the society dissolved, than to submit to established iniquity. Such extraordinary cases we can easily conceive there may be, as will give any man a just title to seek the dissolution of the society to which he belongs, or at least will fully justify his withdrawing from it. But as long as he continues in it, professes regard for it, and reaps the emoluments of it, if he refuses to obey its laws, he manifestly acts both a disorderly and dishonest part: he lays claim to the privileges of the society, whilst he contemns the authority of it; and by all principles of reason and equity is justly subjected to its censures. They who maintain that such disobedience deserves no censure, maintain in effect, that there should be no such thing as government and order. They deny those first principles by which men are united in society; and endeavour to establish such maxims, as will justify not only licentiousness in ecclesiastical, but disorder and rebellion in civil government. And therefore, as the Reverend Commission have by this sentence declared, that disobedience to the supreme judicature of the Church, neither infers guilt, nor deserves censure; as they have surrendered a right essential to the nature and subsistence of every society; as they have (so far as lay in them) betrayed the privileges, and deserted the order of the constitution; we could not have acted a dutiful part to the Church, nor a safe one to ourselves, unless we had dissented from this sentence; and craved liberty to represent to the Venerable Assembly, that this deed appears to us to be manifestly beyond the powers of a Commission.

2. Because this sentence of the Commission, as it is subversive of society in general, so, in our judgments, it is absolutely inconsistent with the nature and preservation of ecclesiastical society in particular.—The characters which we bear, of ministers and elders of this Church, render it unnecessary for us to declare, that we join with all Protestants, in acknowledging the Lord JESUS CHRIST to be the only King and Head of his Church.

We admit, that the Church is not merely a voluntary society, but a society founded by the laws of Christ. But to his laws we conceive it to be most agreeable, that order should be preserved in the external administration of the affairs of the Church. And we contend, in the words of our *Confession of Faith* (ch. 1. § 6.), "That there are some circumstances concerning the worship of God, and the government of the Church, common to human actions and societies, which are to be ordered by the light of nature and Christian prudence, according to the general rules of the word, which are always to be observed." It is very evident, that unless the Church were supported by continual miracles, and a perpetual and extraordinary interposition of Heaven, it can only subsist by those fundamental maxims by which all society subsists. A kingdom divided against itself cannot stand. There can be no union, and, by consequence, there can be no society where there is no subordination: and therefore, since miracles are now ceased, we do conceive, that no church or ecclesiastical society can exist, without obedience required from its members, and enforced by proper sanctions. Accordingly, there never was any regularly-constituted church in the Christian world, where there was not at the same time some exercise of discipline and authority. It has indeed been asserted,\* "That the censures of the Church are never to be inflicted, but upon open transgressors of the laws of Christ himself; and that no man is to be constructed an open transgressor of the laws of Christ, for not obeying the commands of any assembly of fallible men, when he declares it was a conscientious regard to the will of Christ that led him to this disobedience." This is called asserting liberty of conscience, and supporting the rights of private judgment: and upon such reasonings the Rev. Commission proceeded in coming to that decision of which we now complain. But we think ourselves called upon to say, and we say it with concern, that such principles as these, appear to us calculated to establish the most extravagant maxims of Independency, and to overthrow, from the very foundation, that happy ecclesiastical constitution which we glory in being members of, and which we are resolved to sup-

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\* The allusion is to the Reasons of Dissent in the Torphichen case last year. See p. 210.

port. For upon these principles, no church whatever, consisting, as every church on earth must consist, of fallible men, has right to inflict any censure on any disobedient person. Let such person only think fit, boldly to use the name of conscience; and, sheltered under its authority, he acquires at once a right of doing whatsoever is good in his own eyes. If anarchy and confusion follow, as no doubt they will, there is, it seems, no remedy. We are sorry to say, that brethren who profess to hold such principles, ought to have acted more consistently with them, and not to have joined themselves to any church, till once they had found out an assembly of *infallible* men, to whose authority they would have acknowledged submission to be due. We allow to the right of private judgment all the extent and obligation that reason or religion require; but we can never admit, that any man's private judgment gives him a right to disturb, with impunity, all public order. We hold, that as every man has a right to judge for himself in religious matters, so every church, or society of Christians, has a right to judge for itself, what method of external administration is most agreeable to the laws of Christ: and no man ought to become a member of that church, who is not resolved to conform himself to its administration. We think it very consistent with conscience, for inferiors to disapprove in their own mind of a judgment given by a superior court, and yet to put that judgment in execution, as the deed of their superiors, for conscience' sake; seeing we humbly conceive it is, or ought to be a matter of conscience with every member of the church, to support the authority of that church to which he belongs. Church-censures are declared by our *Confession of Faith* to be "necessary, not only for gaining and reclaiming the offending brethren, but also for deterring of others from the like offences, and for purging out the leaven which might infect the whole lump," (*ch.* 30. § 3). What these censures are, and what the crimes against which they are directed, is easily to be learned from the constitution of every church. And whoever believes its censures to be too severe, or its known orders and laws to be in any respect iniquitous, so that in conscience he cannot comply with them, ought to beware of involving himself in sin by entering into it; or if he hath rashly joined himself, he

is bound, as an honest man, and a good Christian, to withdraw, and to keep his conscience pure and undefiled.— But, on the other hand, if a judicature which is appointed to be the guardian and defender of the laws and orders of the society, shall absolve them who break these laws, from all censure, and by such a deed encourage and invite to future disobedience, we conceive it will be found, that they have exceeded their powers, and betrayed their trust in the most essential instance.

3. Because we conceive the sentence of the Commission to be not only inconsistent with church-government in general, but in a particular manner inconsistent with Presbyterian church-government, which we have acknowledged to “be founded upon, and agreeable to the word of God.” The two capital articles by which Presbytery is distinguished from every other ecclesiastical constitution, are the parity of its ministers, and the subordination of its judicatures. By the one, the church is preserved from exercising that lordship and dominion over our brethren which is condemned by our Saviour, and which is inconsistent with that liberty wherewith Christ hath made us free\*. By the other we guard against that anarchy and confusion which is the unavoidable consequence of the Independent system. Our Church therefore may well boast, that her government is of all others the most consistent with the natural freedom and equality of her members, considered either as men or Christians. But it is an undoubted maxim, That the more free any constitution is, with the more exactness should its orders and systems be preserved. As great liberty will always encourage subjects to presume, so it should teach governors to watch with double vigilance.—Wherever there is a subordination of courts, there is one that must be supreme : for subordination were in vain, if it did not terminate in some last resort. We do not pretend to vest any court with infallibility ; but we cannot help being surprised, that any of our brethren should have been at a loss to conceive this plain and obvious principle, That it is essential to the very idea of a supreme judicature that its decisions be absolute, and final. Such a supreme judicature by our constitution is the General Assembly of

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\* Luke xxii. 25. Gal. v. 1.



the Church : and therefore, if the decisions of the General Assembly may be disputed and disobeyed by inferior courts with impunity, we apprehend the Presbyterian constitution to be entirely overturned. There is no occasion for this Church to meet in its General Assemblies any more : our government is at an end ; it totters from the very basis ; and we are exposed to the contempt and scorn of the world, as a church without union, order, or discipline, destitute of strength to support its own constitution, falling into ruins by the abuse of liberty. Our wiser ancestors took the proper steps to guard against such dangers. They established solemn subscriptions and engagements to bind the ministers of the Church to obedience and submission to its judicatures ; which engagements, as they continue to this day, we heartily wish were more attended to and regarded. By the formula, which all ministers subscribe at their ordination, they solemnly promise, “ To assert, maintain, and defend, the doctrine worship, discipline, and government of this Church, by Kirk-sessions, Presbyteries, Provincial Synods, and General Assemblies ; in their practice to conform themselves to the said worship, and to *submit* to the said discipline and government ; and never to endeavour, directly or indirectly, the prejudice and subversion of the same. They promise to follow no divisive course from the present establishment of this Church ; renouncing all tenets, doctrines, and opinions whatever, contrary to, or inconsistent with the said doctrine, worship, discipline, or government of the Church.” To the same purpose is the 5th article of the engagements which ministers at their ordination come under before the whole congregation. “ You promise to submit yourself willingly and humbly, in the spirit of meekness, unto the admonitions of the brethren of this Presbytery, and to be *subject* to them, and all other Presbyteries and superior judicatures of this Church, where God in his providence shall cast your lot ; and that, according to your power, you shall maintain the unity and peace of this Church against error and schism, notwithstanding of whatsoever trouble or persecution may arise ; and that you will follow no divisive courses from the present established doctrine, worship, discipline, and government of this Church.” Such are the engagements to obedience and submission which this Church lays upon

her members. And these her general principles of subordination and obedience, she hath explained and asserted in the strongest terms, so often as there was any apprehension of danger from licentious principles. About an hundred years ago, the same anti-constitutional maxims which were advanced to support the sentence of which we complain, were brought into this kingdom, by English sectaries, or by certain persons, who, living amongst them, had imbibed their principles, and endeavoured to import them into our Church. But to give a timely check to their progress, the Assembly “appointed some brethren to prepare articles and propositions for vindicating the truth, against the dangerous tenets of Erastianism and Independency, falsely called liberty of conscience.” And when these propositions were exhibited *anno* 1647, they unanimously approved of this among others, “That the lesser and inferior ecclesiastical Assemblies ought to be subordinate and subject unto the greater and superior Assemblies.” To this declaration, which we humbly conceive is a decision in point, and to the whole spirit and system of the Presbyterian government, this sentence of the Commission is manifestly repugnant; and therefore we doubt not but the Venerable Assembly will justify our dissent; and will find that the Commission have exceeded their powers.

4. Because this sentence of the Commission, as it is in our opinion contrary to the principles, so it is inconsistent with the uniform practice and procedure of the Presbyterian Church. Our judicatures have all along not only asserted the general principles of subordination and obedience, but have expressed a proper degree of displeasure, when these principles were trampled upon. It were easy to show, that in every period of the church, censures of all kinds, from the lowest to the highest, have been inflicted upon the undutiful and disobedient. We shall only take notice of one instance, which will demonstrate, with what a different spirit, but how much more consistently with Presbyterian principles, our ancestors exercised discipline, in a case that falls under the same general rules with the behaviour of the Presbytery of Dunfermline. The case is found in the unprinted acts of Assembly 1646. Mr. James Morison being suspended by the Presbytery of Kirkwall, his immediate superi-

ors, did appeal to the General Assembly; and in the mean time, notwithstanding his suspension, continued in the exercise of his ministerial functions: for which the Presbytery deposed him. Yet he, adhering to his appeal, went on and preached. The matter coming before the General Assembly, they find "that the Presbytery hath not upon sufficient grounds suspended the said Mr. James Morison." Notwithstanding their condemning the sentence of the Presbytery, it is very remarkable that they found at the same time, "That the said Mr. James was contumacious, in that he did not give obedience to the Presbytery in forbearing to preach during the time of his suspension, as also in preaching after his deposition. They therefore appointed the moderator to reprehend him sharply in the face of the Assembly for his contempt and disobedience, and ordain him to humble himself before the Presbytery, and acknowledge humbly his offence aforesaid, and his sorrow for the same. And in the mean time repon him again to the full exercise and benefit of his ministry." At the same time they appointed the Presbytery of Kirkwall to be rebuked for their unjust suspension of Mr. Morison. Yet they by no means condemn the sentence of deposition, which the Presbytery had pronounced against him for his disobedience to their sentence of suspension. The whole of this procedure, as it is worthy of an Assembly convened in what is justly called the pure and reforming age of our Church, so it appears to us to be warranted by justice, agreeable to the general maxims of government, and founded upon the essential principles of the Presbyterian system. In that age our judicatures were peculiarly attentive to the preservation of the order and subordination of the Church. The same torrent of licentious principles, which in England had borne down before it all ecclesiastical government, was ready to break in upon us. Our Church saw, and dreaded its approach. She bewails the increase of dangerous tenets, particularly of "Independency, and that which is called (by abuse of the word) liberty of conscience; being indeed liberty of error, scandal, schism, heresy, dishonouring God, opposing the truth, hindering reformation, and seducing others\*." As the same errors seem to be again revived, as the dangerous

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\* Declaration to their brethren of England. Sess. 15. Ass. 1647.

tenets of Independency spread fast, and have in all appearance infected some of our own members, we do humbly conceive, that it would have become the Reverend Commission, rather to have imitated the vigour of their forefathers, in supporting the Presbyterian discipline and government, than by this unprecedented sentence to have given admittance, and promised impunity to the most unconstitutional tenets and practices.

5. Because we conceive this sentence not only encourages disobedience to the decisions, but will justify any contradiction to the doctrines of the Church.—It belongs to every ecclesiastical constitution, to have some common standard, to which its members are required to conform, in order to preserve purity of doctrine, and uniformity of faith and worship. Accordingly, every minister and elder of this Church is obliged to acknowledge and subscribe our *Confession of Faith* ; and whoever hath at any time publicly departed from or denied *the form of sound words* therein contained, not only became liable unto, but actually felt the censures of the Church. But if the Church, for the future, shall follow the precedent set them by the Commission, and shall adopt the reasonings which were used to impetrate the sentence complained of, the doctrine of her standards may be deserted and contradicted with the greatest impunity. If any minister of the Church shall think proper to espouse and publish the most wild, erroneous, and hurtful opinions, let him only declare, “that it was a conscientious regard to the will of Christ himself, according to the best of his understanding of it, that led him into this opinion;” let him say, “that he is persuaded his notions are agreeable to the will of the Lord, of which every man has an unalienable right to judge for himself, as he shall be answerable to the Lord;” and then (according to the declared principles of most of the brethren who voted for this sentence) “no Assembly of fallible men can encroach upon his rights, or stretch their power so far as to inflict any censure.”\*

6. Because the Commission being a court of delegates, to which no intrinsic power or jurisdiction belongs, upon inspecting the powers and instructions given them by the

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\* These are also references to the Dissent in the case of Torphichen at p. 210.



last Assembly, it appears, that they have manifestly exceeded them in the most important articles. They are instructed, "to advert to the interest of the Church on every occasion, that the Church and present establishment thereof do not suffer, or sustain any prejudice ;" and are required, "in all their actings to proceed according to the acts and constitutions of this Church, and to do nothing contrary thereto, or to the prejudice of the same." But this sentence, we are persuaded, will appear at first sight, and without recapitulating our former reasonings, to be contradictory to the acts, dangerous to the constitution, and subversive of the present establishment of this Church. By the same instructions it is also provided, "that what shall be determined at one diet of the Commission, shall be unalterable by any other diet thereof, but shall stand and continue in force, till disapproved of by the General Assembly." This appointment, so reasonable in itself, and so necessary for preserving a consistency in the decisions of our judicatures, the Commission, as we conceive, have most notoriously transgressed. The same Commission, at their meeting in November last, "appointed the Presbytery of Dunfermline to admit Mr. Richardson as minister of Inverkeithing on the third Wednesday of January, and their present moderator to preach and preside at the admission ; with certification, that the Commission, at their meeting in March next, will proceed to very high censure in case of disobedience." The Presbytery, it is to be observed, were fully heard at that time, in defence of their former disobedience ; their reasons were found insufficient, and the sentence given. In March they again appeared ; they were still disobedient ; and though their guilt was highly aggravated, and their defences contained nothing, but what had been formerly heard, and over-ruled ; yet the Commission, by a small majority, gave the decision of which we complain. They reversed a sentence, which, in reason, and according to the instructions of last Assembly, ought to have continued unalterable, till it was disapproved by the supreme judicature of this Church ; and which therefore we contend is in itself, to all intents and purposes, void and null.

7. Because we apprehend the Commission to have exceeded their powers, in regard that by this sentence they

directly condemn the decision of that court, from which they derive their jurisdiction, in a parallel case. A disobedient Presbytery\* appeared at the bar of the last Assembly, to answer for the neglect of their duty. Their defences were offered at great length, and yet that court found them censurable. Though the lenity of the judges mitigated the censure into a rebuke, yet it is well known, that as some contended it was expedient, so most allowed it was just and constitutional, that an higher censure should have been inflicted. Notwithstanding which, in a cause of the very same nature, where the guilt was as great, the defences no stronger, and where the useful phrase of *the present circumstantiate case* was more against, than in favour of the delinquents; the Commission have, by this sentence, so far as in them lay, condemned the deed, reversed the decision, and poured contempt upon the example and authority of the last Assembly.

8. Because we apprehend the circumstances of the Presbytery of Dunfermline furnish no sort of plea for their being exempted from censure. Had there been any thing very singular in the case of Mr. Richardson's settlement, some more plausible colouring might have been given to their disobedience. But it is, in our apprehension, a plain and incontestable case, and where there was no ground for any difficulty to have risen.—Besides a presentation from the undoubted patron, which was duly accepted by Mr. Richardson, there concurred at the moderation, or have since acceded to his call, a considerable majority of the legal voters, heritors, elders, and town-councillors; whose countenance must give great influence to their minister, as they are the proprietors of the whole landed interest of that large parish. Of the people a good many have declared their willingness to submit to Mr. Richardson's ministry; and others are still in an opposition against him; for which they have hitherto given no reasons, as they are bound to do by the laws of the Church; yet by far the greatest number have taken no side in the matter; and from their neutrality, we may well conclude, both in reason, and from the experience of the Church in the like cases, that they are willing to acquiesce in the decisions of their superiors, and to join with Mr. Richardson as

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\* The Presbytery of Linlithgow. See page 208.

their minister, so soon as he shall be settled amongst them. Now, in such a case as this, if Presbyteries assume to themselves a right of superseding at pleasure the authority of the General Assembly, enjoining a settlement to be made effectual, no man can see an end of this confusion. To pass over the Presbytery, whose immediate duty it is, in obedience to their superiors, to admit a minister to his charge, and to appoint others to do their work, is, we cannot help thinking, a very poor remedy. It discovers the weakness of the Church ; it introduces the minister into his charge in the most unfavourable way for his future usefulness ; and gives the wished-for opportunity to such as court popularity, to exalt their popularity upon the ruins of general order. We cannot help being surprised, that our brethren, whose consciences are so tender in other points, should feel no remorse of conscience, for giving such a blow to the authority of their mother-church. We are willing to think charitably of our brethren of the Presbytery of Dunfermline ; but with whatever uprightness, with whatever disinterested regard to conscience they may have acted in this matter, it is but too evident, that as men cannot judge the heart, the very same defences may be pleaded equally strong, for men who hereafter shall act a similar part, from mere cowardice, from the fear of being less followed by a crowd, or from other sinister views. And therefore we conceive, that in exempting the Presbytery of Dunfermline from all censure for their disobedience, the Commission have acted an unjustifiable part, and exceeded the powers of their delegated jurisdiction."

Now follows what may be termed the *Manifesto* of the *Popular Party*, although there was never perhaps the same unity either of sentiment or action among them as among their opponents. The persons by whom this paper was drawn up have been already mentioned at p. 230. In a pamphlet which appeared about the beginning of 1753, entitled "*a just View of the Constitution of the Church of Scotland*,"\*—and which was intended as a vindication of

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\* This is the pamphlet which *Witherspoon* says provoked him to publish his "*Ecclesiastical Characteristics ; or the Arcana of Church-Policy*—being an humble attempt to open up the Mystery of *Moderation*." He was especially indignant at the above and other charges brought against his friend

the *Moderate Party*,—the writer says :—"It is well enough known, that the Presbytery of Dunfermline were supported and countenanced in their disobedience by some clergymen, who, for their public appearances of one kind or another, have merited no great esteem of the friends and well-wishers of the Church of Scotland. The sentence of the Commission in March, finding the Presbytery *not censurable*, which was the foundation of all the mischief that followed, *was manufactured in a certain place and by certain hands*, while others were employed as the *dupes* to propose and support it." We need not attach much credit to the assertion of an anonymous party-writer; yet in a matter so important as the Inverkeithing settlement had now become, it is not unlikely that the leading men on both sides took an active interest in all the proceedings. Dr. Webster, of Edinburgh, seems to have been the person against whom the above accusation was chiefly aimed.

*Answers to the Reasons of Dissent from the Sentence of the Commission in the case of Inverkeithing, March 11, 1752; drawn up by the Committee appointed for that purpose, and dated May 16.*

In the introduction to the paper, the Committee remark with concern, "that the Dissenters have so unhappily degenerated from the mild spirit, and cautious measures, of some of the wisest of our predecessors. Who does not know that these Reverend Fathers carefully avoided bringing such cases upon the field, as that which the Dissenters blame the Commission for sending off in the least hurtful manner? Who, before the Dissenters, ever contended that the mild exercise of acknowledged authority, in a particular case, is destructive of all government, civil and ecclesiastic? No wonder, then, if, after all, nothing hath appeared under the name of *Reasons of Dissent*, but a paper wholly made up, either of loose and unguarded propositions; or of such general principles as nobody denies, quite misapplied in the present case."

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Webster. He says that common rumour ascribed the pamphlet to Dr. H——n, (Hyndman of the West Kirk?) The "*Characteristics*" appeared at Glasgow in September 1753, and ten years after were followed by "a Serious Apology for the Ecclesiastical Characteristics, by the real author of that performance."



They proceed to state that the Presbytery had been called to the bar of the Commission in March, to give their *reasons* for not obeying the appointment of the Commission in November. "To what purpose, if these reasons were not to come under the serious consideration of that Commission? or were to have no weight with it, whatever they should be?" They then give a summary of the Presbytery's defence, and add:—"After such a plea at their bar, what did the Commission? Considering the whole affair, and particularly the foresaid defences, they resolved to inflict no censure upon the said Presbytery upon account of their foresaid conduct."

"And this is the sentence against which such hideous outcries are made by the Dissenters; as inconsistent with the nature and first principles of society; absolutely inconsistent with the nature and preservation of ecclesiastical society; in a particular manner inconsistent with Presbyterian church government, and with the uniform practice and procedure of this Church.

But all this is advanced without any shadow of proof.

1. On the first head, they begin with a comparison, betwixt the obligations upon men considered as individuals; and when associated together, and under government. In the whole of what they say upon this head, they keep it quite out of view, that every man, whether in a separate or associated state, is under the absolute dominion of God his creator, the lord of his spirit, and the supreme parent of human society; whose authority is supreme, and paramount to all other. Withal, they discover a particular shyness to come close to the precise state of the question: which is not, "Whether men, as members of society, are bound, *in many cases*, to follow the judgment of the society?" but, "Whether they are bound to do so *in all cases* without exception?"—nor, "Whether the judgment of the legislative power must be final?" so as to be reversible only by themselves; and that they have a power of putting it in execution; which they may do, by laying their injunctions on such as do not think it sinful to obey them: but, "Whether it must be *absolute*?" so as it must necessarily be obeyed *without reserve*: as to which, we are perfectly clear to say, in the words of our *Confession of Faith*, chap. 20. § 2. "That the requiring of an implicit faith, and an *absolute* and *blind*

obedience, is to destroy liberty of conscience, and reason also." Neither is it the question, "If they who *disapprove* a public regulation," (if, by *disapproving* it, is meant any thing *less* than thinking it sinful to obey it), "are, notwithstanding, bound to obey it; and to put it in execution, if required?" but, "Whether they are bound to *obey*, or *execute* it, who, on the most serious deliberation, think it sinful, and contrary to the will of God, the supreme Lord of all, to *obey* or *execute* it? or if inferiors are never to take *that point* into their serious consideration; but blindly and implicitly to obey or execute the regulation, without asking questions."

We shall not now insist upon it, that to assert such an absolute unlimited authority in the supreme powers in every society, and apply it to ecclesiastical government, would be raising church-power to as high a pitch of dominion, as ever he pretended to, whom the Canon law calls, *Dominus Deus noster Papa*; but whom the Apostle *Paul* characterises, as *opposing and exalting himself above all that is called God, or that is worshipped; so that he as GOD sitteth in the temple of GOD, shewing himself that he is GOD*. But we must here observe, that such doctrine would carry the matter of obedience to the supreme powers in civil society, much farther than the highest patrons of the most absolute passive obedience and non-resistance generally do; who, at least, allow people this *hard* choice; either *actively*, to obey *all* commands of the sovereign; or *passively*, to submit to his will, and to whatever punishments he may please to inflict for disobedience. But to assert, that active obedience, in *all* cases, without reserve, and without asking questions, is to be paid to the supreme powers, even in civil society, is scarce to be paralleled, but by some expressions of ranting writers; and an Act of the Parliament of *Scotland*, in the reign of *K. James VII. Parl. 1. Sess. 1. Act. 2.* where the estates of Parliament declare, "That our Kings are invested with *absolute* authority; and that they abhor and detest all principles and positions, which are contrary and derogatory to the King's sacred, supreme, *absolute* power and authority; and that they hold themselves obliged—to assure all his enemies,—that they are firmly resolved to give their entire obedience to his Majesty, *without reserve*." This Act, with many others of that Parlia-

ment, are rescinded in the first Parliament after the late glorious revolution. But, agreeably to it, the famous Dr. Parker\* speaks out plainly, and without disguise or evasion, what some now seem to aim at: "In cases and disputes of public concernment, says he, private men are not properly *sui juris*: they have no power over their *own actions*: they are not to be directed by their own judgments, or determined by their own wills; but by the commands and determinations of the public conscience: and if there be any *sin* in the command, he that imposes it shall answer for it; not I, whose whole duty it is to obey: the commands of authority will warrant my obedience: my obedience will *hallow*, or at least *excuse* my action; and so secure me from *sin*, if not from error." Agreeably to this doctrine, has it not been openly pled, in defence of severe measures, with those who declared, "That their not obeying their superiors proceeded *only* from their honestly judging, upon the most serious consideration of the particular case, that it was sinful *for them* to obey;" has it not been openly pled, That "when appointments of superiors are once made, the consciences of inferiors had nothing to do, but obey them: that it did not belong to inferiors, to examine the orders of their superiors, or call them in question; else *all* government would be at an end; whether these orders were *right* or *wrong*, was none of *their* business: they were the deeds of their superiors, not theirs; and they were only to be executors of them?" We may adventure to say, by the by, that if such were the maxims of the supreme powers in any society, they should get a *machine* to execute their sentences! For, sure, such principles could never be applied to rational creatures of God; who are answerable to him, their supreme judge, for all their own acts and deeds; whatever way they are put upon doing them. Nor will it be a defence, or excuse, before his awful tribunal, that in *doing an action* which their consciences told them was contrary to his will, they *willingly* (or headlong, and without asking questions) *walked after the commandment* of any earthly superior whatsoever.

The dissenters, indeed, do not go quite so far as to assert, that inferiors are, in *all* cases, to obey or execute the

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\* Pref. to Dr Bramhall's vindication. p. 308.

orders of their superiors, without some *distinction*. They favour us with *one* exception, and *one only*. They plainly and expressly declare, That “no sooner is a regulation enacted by the legislative power in society,—than even they who disapprove it, are, notwithstanding, *bound* to obey it, and to put it in execution, if required ; UNLESS in a case of such *gross* iniquity, and manifest violation of the original design of the society, as justifies *resistance* to the supreme power, and makes it better to have the society dissolved, than to *submit* to established iniquity.” So that now it *comes* fairly out, That “let any the most *atrocious* iniquity, any the most *heinous* sin against God, be enjoined by the legislative power on private persons ; which yet does not warrant their seeking the dissolution of the society, or their withdrawing from it ; they *must* obey the iniquitous command, without asking questions.” This is *such* doctrine, from *ministers* and *office-bearers* in this Church, as no man needs attempt to expose, further than it exposes itself. We know not why a man may not “*continue* in a society, *profess* a regard for it, and *reap* the emoluments of it ;” and yet *refuse*, or *omit*, to obey some *iniquitous* commands, which may sometimes happen to be enjoined in the very best society upon earth ; without “manifestly acting a *disorderly*, far less a *dishonest* part ; or even *contemning* the authority of the society ;” though in these instances he *prefers* the authority of God before it : and we know nothing to hinder any *peaceable* member of society, though he omits obeying *such* commands, to *lay claim* to the privileges of it ; till, by the course of a legal process and sentence, he is *deprived* of them. The contrary of *all* this seems plainly to be asserted by the *Dissenters* ; whose constant maxim is, “Obey in *all* cases, or withdraw from the society.” But do they think to convince *the world* by their confident assertions, that a man who has *transgressed* any law of the society, is bound, *as an honest* man, to take it immediately upon himself to be both his *own judge and executioner* ? We believe this would be reckoned rather a *contempt*, than a *respect* for the laws and order of society. If a man has committed a transgression of the law of any country, which, by that law, is made capital ; we believe he may very *honestly* (especially if he is not conscious of having committed *any heinous sin* against



God) not only continue in life, till he is condemned and executed by a legal process ; but even beg the government to *spare his life*, if they see it consistent with the public good, and the peace of the society : and in such a case, it may be a worthy and becoming part of an equitable and merciful government, to grant his request.

But if the case fairly stated, comes out somewhat favourably for the Presbytery of *Dunfermline*, it comes out still more favourably for the Commission. For, it would certainly require a little more proof, than a bare assertion, to establish this *principle*, “ That merely *refraining* from punishing an offence, or censuring an act of disobedience is *declaring*, that the disobedience neither *infers guilt*, nor *deserves censure*.” The most severe and tyrannical governments will scarce be found always to go upon such a maxim, else there would be no end of punishing. And if barely forbearing to punish even heinous offences and crimes, was “ surrendering a right *essential* to the nature and *subsistence* of every society,” our happy constitution in *Britain* must have gone to ruin long ago : which, blessed be God, stands a noble witness against such maxims. We beg leave to quote a passage from a most excellent performance, addressed to the *Pretender’s eldest son* ; in answer to his *second manifesto*, in the famous year 1745 ; the author\* of which shows himself a great master of *good argument* and *fine writing*, thoroughly *well acquainted* with our *British* affairs, and *well apprised* of any *facts* he would take upon him to assert. In *p.* 29 and 30, speaking of our present gracious *sovereign*, he says, “ For the *mildness* of his government, let this singular circumstance bear witness, that we are now in the 19th year of his reign, and hitherto *not one* drop of blood shed for a *state-crime*, even in the legal methods of trial, though there have not been wanting occasions, even before you was pleased to make us a visit, for just severities of that kind.” Now, do the government, by such instances of clemency, *declare*, “ That such crimes *infer no*

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\* This quotation is from the “ Occasional Writer,” published anonymously, but known to be by Mr. Wm. Grant, who was at the time of the rebellion Solicitor-General and Procurator for the Church. He was now Lord Advocate, and being a supporter of the Moderate Party, (though he had formerly written a tract against Patronage) the quotation in the text may have been intended as an *argumentum ad hominem*.

*guilt*, and *deserve* no censure?" far from it: Have such acts of mercy tended to the subversion of the excellent *British* constitution? no; but to its establishment and strength: Have they *shown the weakness* of his Majesty's administration, or *shaken his throne*? no; he stands a *glorious instance* of that maxim of holy writ, *The king's throne is upholden by mercy*.

II. The second reason of the dissent is, That "this sentence of the Commission is absolutely inconsistent with the nature and preservation of ecclesiastical society in particular." Here the dissenters declare, That they "join with *all* Protestants, in acknowledging the Lord Jesus Christ to be the only King and Head of his Church;" and yet, not many lines after, they "think themselves called upon to say, and they say it *with concern*, that *such principles as these*,—That the censures of the Church are never to be inflicted, but upon open transgressors of the laws of Christ himself; and that no man is to be constructed an open transgressor of the laws of Christ, for not obeying the commands of any Assembly of fallible men, when he declares it was a conscientious regard to the will of Christ that led him to this disobedience;—that such principles appear to them calculated to establish the most extravagant maxims of Independency, and to overthrow that church-constitution, of which they glory in being members, from the very foundation." For our part, we own it gives us *very great concern*, to see such principles as these impugned, and so *keenly* too, by any who profess to be *members* of any Christian church; far more, who bear the character of *ministers* of the gospel.

The first of these principles, in the place referred to by the dissenters, plainly speaks of the church of Christ as such; and not as any part of it may be favoured with a civil establishment, or outward emoluments. In this view, we cannot but consider the censures of the church, properly so called, as applications of the denunciations of Christ himself, and his Apostles, against the *transgressors of his laws*; and *open* transgressors they must be, whose transgressions fall under the cognisance of any court on earth. Nor is that principle there advanced, without laying down the plain foundation of it, from which it evidently follows; namely, That Christ is the *alone king* of his church, and its *only law-giver*. Does not Christ's

Commission to his Apostles themselves, comprise the whole purpose of their work, in the *teaching men to observe all things whatsoever he had commanded them*? Are not the *censures* of the church one part of the methods by which they were to teach them these things? and therefore to be confined to those who, in some instance or other, neglected, or refused, to observe what Christ had commanded? If we consider all the rules and directions of our blessed Saviour, or his Apostles, concerning church-discipline, we may be abundantly satisfied, that the actions or neglects of men, being transgressions of the laws of Christ, and open and scandalous transgressions too, is the only view in which they fall under the censures of his church, properly so called: and from these rules every one may *more easily* learn, "what the censures of the church are, and what the crimes against which they are directed;" than by being sent so far about as the dissenters would have us go, "to the constitution of every church," to learn them. There may indeed be another power granted to some part of the church by the civil government, and the laws of the land. When *they* annex civil emoluments to the office of ministers in the church, on certain terms and conditions, they may trust the judicatures of the church with judging, who come up to these terms, or who come short of them, or fall off from them; and, accordingly, admitting men to partake of these legal advantages, or excluding them from them. But in the exercise of this power, *except* in so far as the actions which fall under their cognisance are transgressions of the law of Christ, as well as of the laws of the land, they act not so properly the part of ministers of Christ, inflicting church-censures; as that of trustees of the public, executing those laws of the land which are intrusted or left to their execution. For the power given to his ministers by Christ has nothing to do with giving or taking away civil privileges and emoluments. For which reason, a humane, and far more a Christian spirit, would lead men to exercise this power given them by law, with all the tenderness and lenity which the civil government will permit; instead of taking advantage of it to deprive men of their legal privileges and benefices, or take steps tending that way, upon *frivolous pretences*. It is certainly most becoming ministers of the gospel, and office-bearers in

Christ's church, to exercise *any* power intrusted to them, with *all* the prudence and tenderness they can; and with a sacred regard to those laws of Christ, which lay a great stress upon *forbearance*, and avoiding to *lay a stumbling-block, or an occasion to fall in our brother's way*. Nothing can be more unbecoming *them*, than to exercise the power intrusted to them by the State, in an arbitrary way; to *do* hard things just because they *dare*, and have the sanction of the law with them: to stretch a law they *all* call a *hard* one; and thus make it, in many cases, *harder* than the legislature has made it. And scarce any thing could be more absurd, than to turn men out of their benefices, for not acting contrary to principles, in which they are supported by standing rules of the Church: or to use this power contrary to what may reasonably be presumed to be the design of the law, in bestowing legal emoluments upon ministers; *viz.* that they are given by the law with a view of some service to religion and the public, to be done for them.

As to the other principle, "That men are 'not to be constructed open transgressors of the laws of Christ, for not obeying the commands of any Assembly of fallible men;" it would not appear so very strange to any one as the dissenters would have it to be reckoned, had they thought fit to put it down as it stands in the place to which they refer. There it is, "*merely* for not obeying," &c. The word *merely* they have thought fit to leave out; with what design, we shall not say. They might think it of no importance to their purpose to *keep* it in: but some of us, who still reckon it our honour to have our names at *that dissent*, thought it of great importance to *put* it in; being well aware, that a man, by the same action, may be transgressing a plain law of Jesus Christ, and likewise a command of fallible men, honestly teaching him to observe what Christ has commanded, and not any mere injunctions of their own. But when that is not the case, That "no man is to be constructed an open transgressor of the laws of Christ, *merely* for not obeying the commands of any Assembly of fallible men," we think might be admitted for a *self-evident* maxim, by all who allow a difference betwixt *Christ* and *fallible men*. We know no connection *these principles* have with the peculiarities of the *Independent* form of church-government.



The dissenters say, These principles are “calculated to overthrow, *from the very foundation*, that happy ecclesiastical constitution which they glory in being members of, and which *they* are resolved to support.” The expressions, *from the very foundation*, are somewhat ambiguous; but if their *ecclesiastical constitution* is a *Christian Church*, and they mean, that these principles are calculated to overthrow it, *foundation and all*, we shall only say, *Other foundation can no man lay, than that is laid, which is Jesus Christ*;\* and that we believe, not the person, but the confession of the Apostle *Peter* to be the *rock*, on which *Christ* has *built his Church*, with the assurance that the *gates of hell shall not prevail against it*.† If they mean, that these principles are calculated to overthrow all *but the foundation*; why, really, if the *superstructure* is so *disagreeable* to the *foundation* as to be *overthrown* by *these principles*, there will be no great harm done: if the *foundation* stands, a better *superstructure* may be easily raised upon *that*, in its place. Such a *disagreeable superstructure* we all know; and we believe, that *the Lord will consume it with the spirit of his mouth, and destroy it with the brightness of his coming*‡. But God forbid we should believe the *Church of Scotland* to be *such a superstructure*! God forbid she should ever *become so*!

But the dissenters further say, “Upon such principles, no Church, consisting of *fallible* men, has right to inflict any censure on any disobedient person, let such person only think fit *boldly* to use the *name* of conscience, &c.” If, by a *disobedient* person, they mean an *open transgressor* of the *commands of Jesus Christ*, and of *injunctions, only teaching him to observe these commands*, his *boldly* using the *name* of conscience, must, even in the eyes of *fallible* men, appear a gross aggravation of his impiety; to use a pretence or cloak for his sin, so manifestly inconsistent in a professed Christian; and, instead of exempting him from *any censure*, must justly render his censure the *heavier*. If they mean only one who *disobeys* the *injunctions* of his *fallible* superiors, in matters of order, or *some circumstances* concerning the worship of God, or government of the Church, he too had need do

\* 1 Cor. iii. 11.

† Matth. xvi. 18.

‡ 2 Thess. ii. 8.

more than *boldly* use the *name* of conscience, to screen him from *all* censure, else he may find it a *boldness* with a *witness* ; he had need to see to it, that his profession be *sincere*, otherwise he must fall under a far *heavier* punishment from the *searcher of hearts*, than any men can inflict upon him, for so heinous a *prevarication* ; and if, by any evidence open to human cognisance, such prevarication is detected, he becomes justly liable to the highest censures of the Church, for so gross a transgression of the sacred laws of Jesus Christ himself. But if so heinous a crime can no way be made evident, to *suspect* it without ground is a gross transgression of the rules of that *charity* which *thinketh no evil*. It is a daring boldness, and an arrogant usurpation of the province of the *searcher of hearts*, for any man to insinuate, “ that this pretence is made to cover over *cowardice*, or the *fear of being less followed by a crowd*, or other sinister views.” As to the assertion, that “ on these principles, a man sheltered under the authority of conscience acquires at once a right of doing whatsoever is good in his own eyes ; ” in one sense, we desire no such right ; in another, we acquire it *at once*, by God’s making us reasonable creatures. A right of doing whatever is good in his own eyes, darkened by irregular passions and appetites, without regard to the will of God, no good man ever claimed ; but a right of doing what, upon the most serious attention and consideration, appears to him *good in the eyes of God and Christ*, is not only the right of every reasonable creature of God, and disciple of Christ, but it is his indispensable duty to exercise it, without fear of being *judged of man’s day*. And there is no *fourth* way any man can act in *any case*, but either by doing what is *right in his own eyes*, in a lawless sense ; or doing what he *sees with his own eyes* to be right in the *eyes of God* ; or putting out *his own eyes*, which God has given him, and *blindly following* the guidance of *other men*, wherever they may think fit to lead him,—for to *see with their eyes* is absolutely impossible. And we can never imagine, that any “ anarchy and confusion, far less *irremediable* confusion, can follow,” from every christian’s *always* acting with a conscientious *regard* to the will of God and Christ, according to his *best* views of it.

The Dissenters may well be *sorry to say* it ; for, in reality, it is a *woful saying*, “ That brethren, who profess

to hold such principles (as the two above-mentioned) ought not to have joined themselves to *any* church, till once they had found out an assembly of *infallible* men." Why, truly, despairing of ever finding out such an assembly, we thought ourselves safe in joining ourselves to a *fallible* church, honestly *professing* to be so; and where the terms of communion, required of us at our entry, appeared to us to contain nothing disagreeable to the will of God and Christ, little expecting that, many years after some of us had joined ourselves to it, any of its members should rise up, and plead in good earnest what *Sir Richard Steele* has been found fault with for saying in a jocular way,—“That though she *could* err, yet she never *did* ;” or, at least, plead for such an absolute, unreserved, *active obedience* to *all* her injunctions, as can only be due to assemblies of *infallible* men; or of whom, at least, we are sure that they never *have* erred, and never *will*. The Dissenters say, “They allow to the right of private judgment all the extent and obligation that reason or religion require.” But the misfortune is, we know of no *priests beyond the sea* but who may *say* as much, while they never think fit to tell us *what* that extent and obligation is. We agree with them, that “no man’s private judgment gives him a right to disturb, with impunity, *all public order* ;” nor can we ever apprehend, that a christian or a minister’s following his best private judgment, concerning the will of God and Christ, will be the *real cause* of the *disturbance* of *public order* in the Church; however, by those who contend for an *absolute* authority in its judicatures, and obedience without reserve to *all* their decisions, it may, very innocently on its part, be *made the occasion* of it.\*

III. The third reason of dissent is, That “the sentence of the Commission is, in a particular manner, inconsistent with Presbyterian Church-government.” The nature of that government, as “distinguished from every other ecclesiastical constitution,” and particularly from the *Independent system*, is described, in the formula which all ministers subscribe, to be “the government of this Church, by Kirk-sessions, Presbyteries, Provincial Synods, and General Assemblies.” The excellency of *that subordina-*

*tion* appears to us to lie, not in the power of church-courts to distress their brethren, but in access which parties have, when they think themselves injured, to seek redress, by *appeals* to the superior courts; who, no doubt, have power to take the *execution*, as well as the *judgment*, into their own hands, when particular circumstances point out the expediency of their doing so.

The Dissenters say, "They do not pretend to *vest* any court with infallibility; but they cannot help being surprised that any of their brethren should have been at a loss to conceive this plain and obvious principle, "That it is essential to the very idea of a supreme judicature that its decisions be *absolute* and final." "That they be *final*, so as to be reversible *only* by themselves," we have already declared we are at *no loss* to conceive; but as to their being *absolute*, so as *all* of them are to be actively obeyed, without reserve or exception, we must still be the objects of the surprise of the Dissenters; for we are so far from being able to conceive it to be a plain and obvious principle, That *this* is "essential to the very idea of a supreme judicature," that we rather apprehend it *essentially contrary* to the *very idea* of any court not vested with infallibility.

It is the less necessary to enter into the particular consideration of the dreadful consequences which it is alleged would follow from the decisions of the General Assembly being, in *any* case, "disputed and disobeyed by inferior courts, with impunity," that the Dissenters tell us, for our comfort, that "our wiser ancestors took the proper steps to guard against *such dangers*, by establishing solemn subscriptions and engagements, to bind the ministers of this Church to obedience and submission to its judicatures." But here it happens a little unluckily for the cause of the Dissenters, that, in *all* these subscriptions and engagements, as they are particularly recited by themselves, there is not such a word as *obedience*, far less *such a phrase*, as *obedience without reserve*, our wiser ancestors not apprehending, it would seem, such a thing necessary for avoiding any "danger from licentious principles."

As much to the purpose, they tell us, That *about an hundred years ago*, "the same anticonstitutional maxims which were advanced to support the sentence of which



they complain, were brought into this kingdom by *English* sectaries, or by certain persons who, living amongst them, had imbibed their principles, and endeavoured to import them into our Church. But, to give a timely check to their progress, the Assembly 1647," after some previous steps, "unanimously agreed to this proposition, amongst others, *That the lesser and inferior ecclesiastical assemblies ought to be subordinate and subject unto the greater and superior assemblies.*" What; no more? Do they add, "that they are *actively* to obey all their appointments without reserve?" Keep off such an addition, and there are none among us, whom the *Dissenters* are the most forward to charge with *anticonstitutional maxims*, but will as *unanimously* approve the proposition, as it stands, as the Assembly 1647 did. And that *same* Assembly 1647 received, with high encomiums and great thanksgivings to God, the *Confession of Faith* compiled by the Assembly of Divines at *Westminster*, living amongst the *English* sectaries, in which are contained such maxims as these:—That "God alone is lord of the conscience; and hath left it free from the doctrines and commandments of men, which are in any thing contrary to his word, or beside it, in matters of faith and worship; so that, to believe such doctrines, or to obey such commands, *out of conscience*, is to betray true *liberty of conscience*; and the requiring of an implicit faith, and an absolute and blind obedience, is to destroy *liberty of conscience*, and reason also," *Ch.* 20, § 2. That "all synods or councils, since the apostles times, whether general or particular, may err, and many have erred; therefore, they are not to be made the rule of faith or practice, but to be used as an help in both," *Ch.* 31, § 4. And even so late as the year 1736, the General Assembly made the following Act, which, on the principles of the *Dissenters*, must be extremely *anti-constitutional*:—"Edinburgh, May 25, 1736. The General Assembly, considering from Act of Assembly, *Aug.* 6, 1575,—*Second Book of Discipline*, *ch.* 3. *par.* 4, 6, & 8, registrate in the Assembly books, and appointed to be subscribed by all ministers, and ratified by Acts of Parliament,—and likewise the Act of Assembly 1638, *Dec.* 17 & 18,—and Assembly 1715, Act 9,—that *it is*, and has been since the *Reformation*, a *principle* of this Church, That no minister shall be intruded into any parish, con-

trary to the will of the congregation,—do therefore seriously recommend to *all* judicatures of this Church, to have a *due regard* to the said principle in *planting vacant congregations* ; and that all Presbyteries be at pains to bring about harmony and unanimity in congregations, and to avoid every thing that may excite or encourage unreasonable exceptions in people against a worthy person that may be proposed to be their minister, in the present situation and circumstances of the Church, so as *none* be intruded into such parishes, as they regard the glory of God, and edification of the body of Christ.” May we not here ask the question, Whether, while this Act stands *unrepealed*, it be *proper* for any judicature of this Church, or even *competent* for a *delegated* judicature, to bear hard upon, or censure any minister or Presbytery, for *not obeying any particular appointment* that seems to fly in the face of this standing rule of the Church? as the last Assembly censured the Presbytery of *Linlithgow*, after they had pled at their bar (and were not then contradicted), that, for them to have *obeyed* the appointment, would have been to have ordained a minister to five or six persons of a *congregation*, consisting of about a thousand.

IV. The *Dissenters* allege, “That the sentence of the Commission is inconsistent with the *uniform practice* and procedure of the Presbyterian Church.” For proof of this *general* assertion, they bring only *one* instance ; which comes no way near to the case, of men barely *not* doing, what, on the most deliberate consideration, they thought *sinful* to do.

V. The fifth reason of Dissent is, That “they conceive this sentence will justify *any* contradiction to the doctrines of the Church ; and warrant the espousing and publishing the most *wild*, erroneous, and *hurtful* opinions, without any censure.” But what proof do they bring of this formidable assertion? None ; but, in their usual way, affirming it in a pompous manner. And it is absolutely impossible for them to prove it; unless *they* will maintain, and make the *Commission* maintain too, that the most *wild*, erroneous, and *hurtful* opinions, may be *espoused and published*, without *openly transgressing any law of Jesus Christ* :” which is a task that they will, perhaps, find too hard for them to undertake.

But, as we are sensible that the stress of the argument,

for never passing by *any* instance of omitting to obey, or execute the sentence of a superior, or the supreme court, will be laid, by many, upon the *consequences* of such forbearance, we find ourselves obliged to say some things to this argument.

It is said, That “to plead conscience as a defence against the censures of ecclesiastical, or the punishments of civil society, is an absurdity in government.” The comparison appears to us extremely wide, betwixt *ecclesiastical* and *civil* government. As the end of civil government is the preservation of the *outward* peace of society ; and its object is the *outward* actions of men *only*, and these considered in the view of their being beneficial or hurtful to human society ; the ends of that government make it necessary to punish *outward* actions of men, that are *hurtful* to their neighbours, or *disturb* the peace of society, without regard, either to the pretences by which they may be palliated, or the *inward* principles from which they proceed. The case, we apprehend, is quite otherwise, with respect to ecclesiastical discipline and censures. The object of these being the actions of professed Christians, considered as *transgressions* of the *laws of Christ*, and the great end of them to *reform the mind*, and preserve the Church a *pure* society, in a *religious* sense, we must think, that great regard is to be had to conscience in the exercise of them. We readily allow, that if the plea of conscience is admitted, as a defence from censure, in *any* cases, fallible judges, who cannot see into the hearts of men, may run the hazard of admitting it sometimes when it may be only a pretence. But does it therefore follow, that it is *never* to be admitted ? We apprehend lawyers would say, to this point, *Abusus not tollit usum*. Such is the unavoidable frailty of *all* human governments, laws, and rules, that a *guilty* man may escape punishment, by those very *methods and precautions* which are necessary to give a man a *fair trial* for his *life*, and to preserve an *innocent* man from being *condemned to die* ; but, in answer to such difficulties, it is commonly, and very justly, said, “ Better *ten* persons escape, than *one* innocent person suffer.”

Again, it is said, “ Such exercises of *lenity* encourage *disobedience* to the appointments of the Church.” But, sure, the less arbitrary superiors are in their commands,

the more ingenuous minds must be encouraged to obey them, as far as conscience towards God allows. And as no lenity is pleaded for, but towards such *transgressions* of the *commandments of men*, as persons of known integrity can lay their hands on their breast, and declare, that after seriously weighing the matter, they thought it *sinful in them* to obey : exercising lenity, in such cases, will only be giving *no discouragement to simplicity and godly sincerity* ; which will not, we hope, be reckoned an *evil* so excessively abounding in our day, as to want any severe checks or discouragements.

Again, it is said, " Passing by such transgressions, without censure, will show the *weakness of our Church*." But we apprehend it may be found, that " nothing more effectually shows *weakness* in the issue, than too strong and forward a show of power." Therefore, the wisest and most effectual methods of the Church's preserving and improving her strength, and in the issue *showing* it, are, to forbear giving arbitrary and unnecessary commands ; to be cautious of *beginning* the work of *censuring*, for transgressions that might be quite overlooked, without any harm either to the interests of religion, or the legal constitution of the Church, to be ready to take the *easiest*, and least straitening methods of executing sentences, which are apprehended necessary to be brought into execution ; and in fine, not to affect a *show of infallibility*, or be ashamed even of reversing sentences, which, after they are made, may be found *hard* and grievous.

But it is said, " It shows the weakness of our Church-constitution, not to be able *always* to bring the sentences of its judicatures into execution in the most *constitutional* way ; but, passing over the Presbytery, whose immediate duty it is to admit a minister to his charge, to appoint others to do their work." Why, this may indeed show, that our constitution is not *almighty* : that it partakes of the weaknesses and infirmities common to *all* human constitutions whatsoever, that they cannot *always* accomplish their designs in the *shortest* and most direct way ; but must *sometimes* take more round-about ways of doing it, provided they be lawful ones. And is such a consequence as this to be put in the balance, with either depriving valuable and useful men of their charges, and the Church of their usefulness ; or laying hard temptations before



any men, to violate and debauch their consciences? the very *worst* purpose that ever power or authority was, or can be applied to!

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ASSEMBLY, 1752.

THE Assembly met on the 14th May. There were put on the leet for Moderator, Messrs. Patrick Cuming and Robert Hamilton, both ministers of Edinburgh, when the former was chosen by a great majority. He had held the office three years before (in 1749); but as a violent party struggle was now expected in the Inverkeithing case, it was probably thought desirable by the moderate interest to have in the chair a man who was known to be decidedly favourable to their views.

The Earl of Leven was Commissioner, and addressed the Assembly in the following speech:—

RIGHT REVEREND AND RIGHT HONOURABLE,—Being again honoured with his Majesty's Commission, to represent his Royal person in this Assembly, it is with pleasure I continue to assure you of your Sovereign's sincere concern for the honour and prosperity of this Church.

In opening a meeting of this kind, it must certainly give to every well-wisher of our constitution, the highest satisfaction, to see us again assembled under the protection of the best of Sovereigns, of whose regard for the prosperity of all his subjects, and in particular for this part of the united kingdoms, we are constantly receiving the most remarkable and illustrious proofs. And here I cannot omit mentioning the late Act of the Legislature, annexing certain forfeited estates to the crown, and appointing their whole annual produce to be applied for instructing the ignorant, reclaiming the disaffected, promoting industry, and happily diffusing Heaven's favourite blessings, religion, liberty, and virtue, where vice and idleness, slavery and dependence, have hitherto had their chief seat. Such a signal instance of princely wisdom and goodness, in concurrence with the great councils of the nation, where the forfeiture of a few is made subservient to the good of the whole, and the very weapons of rebellion are become the spring of true and lasting felicity even

to rebels themselves, must perpetuate our Sovereign's great name with distinguished honour to latest ages.

I am persuaded, that you, Right Reverend and Right Honourable, who have always been patterns of loyalty, will now meet together with such sentiments of the blessings we enjoy under his Majesty's auspicious government, as will dispose you to all expressions of gratitude, and will excite you to set that example to others, which the weight of your characters justly may influence them to follow.

Such frequent experience I have had of the *candour*, *equity*, and *moderation* of the General Assembly of this Church, that I make no question of your conducting all your proceedings in such a manner as will be most agreeable to me, by enabling me to represent your behaviour in the most favourable light to my Royal master.

I know it is unnecessary for me to admonish gentlemen of so much learning, wisdom, and experience, that peace, unanimity, and truth, are the great objects at which you ought to aim. One thing, however, as a well-wisher to the government and good order of this Church, I cannot pass over in silence. Allow me therefore to hope, that as it is our happiness to have regular meetings of our national Assembly, countenanced by our gracious sovereign, you will be careful to support her dignity and authority, and not destroy with your own hands our most valuable constitution, secured by law, so dear to your forefathers, so excellent in itself, and which your enemies have so often in vain attempted to wrest from you. The main intention of your meeting is frustrated, if your judgments and decisions are not held to be final; *if inferior courts continue to assume that liberty they have taken upon themselves, in too many instances, of disputing and disobeying the decisions of their superiors.* It is now more than high time to think of putting a stop to this growing evil; otherwise such anarchy and confusion will be introduced into the Church, as will inevitably not only break us in pieces amongst ourselves, but make us likewise the scorn and derision of our enemies; for, believe me, subordination is the link of society, without which there can be no order in government. When I have said so much, I must likewise be indulged to add, that as I ever was, and ever will be against severities of every kind, I hope you will take the gentlest methods possible to convince your mistaken

brethren of their past error ; and, at the same time, such as may effectually restrain others from following their unjustifiable conduct. Nothing short of my duty to my Sovereign, and my sincere regard for the honour of my Mother-Church, could have prevailed on me to say so much as I have done.—I shall conclude with assuring you, that as we are happy in an excellent constitution of government, both ecclesiastical and civil—and happy, blessed be God, in a Sovereign, who is the gracious protector and guardian of both—it must be our own faults if we lose the advantages of such a situation as our ancestors might justly have envied.

His Majesty has been graciously pleased to renew his usual liberal grant of £1000, for employing itinerant preachers and catechists in the Highlands and Islands, and expects effectual care will be taken that none be employed but who are well affected, and sufficiently qualified for the discharge of their trust.

What assistance can arise to you, Gentlemen, from the character I have the honour to sustain, in carrying on what business may come before you to the best advantage, you have an undoubted title to expect, and shall not be wanting, to the utmost of my power, as the honour of the Church of Scotland ever was, and ever will be dear to me.

The Commission's appointment to the Synod of Fife, to admit Mr. Richardson as minister of *Inverkeithing*, was not complied with. Upon this there was a complaint to the Assembly, by the patron and others, against both the Presbytery and the Synod. There was likewise a complaint by the members who dissented from the judgment of the Commission in March. This affair came before the Assembly on the 16th ; and the members appointed to answer the reasons of dissent having appeared in defence of the Commission's conduct, it was resolved to take it under consideration on Monday the 18th. That day, after reading the report of the visitors of the Commission-book, and hearing parties,\* the Assembly agreed, without a vote,

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\* "Dr. Robertson argued this cause in the General Assembly, 1752 ; and such was the impression made by the argument contained in the Protest [Dissent], and more fully illustrated in his speech, that the supreme court reversed the judgment of the Commission."—*Stewart's Life of Robertson*, p. 171. Comp. *Cook's Life of Hill*, p. 112, 113.

“ That the Commission in March had exceeded their powers, and had not done what they were bound to do conform to the powers given them by the last Assembly.”

A motion was then made, “ That the Assembly do now appoint the Presbytery of Dunfermline to meet at Inverkeithing on Thursday next, at eleven o'clock, and admit Mr. Richardson; that all the members be ordered to attend; that there be at least *five* ministers as a quorum to execute this appointment; and that each minister of that Presbytery be required to appear at the Assembly-bar on Friday next, at twelve o'clock, to give an account of his conduct.” The motion passed, 102 to 56. From this appointment, Messrs. William Hastie of Slamannan, John Oughterson of Cumbernauld, Robert Spears of Burntisland, Thomas Wardrobe of Bathgate, Robert Hall of Kilmarnock, James Lyon of Blairgowrie, George Lyon of Longforgan, David Maxwell of Strathmartine, Wm. Maxwell of Rutherglen, and James Turnbull of Denny, ministers, and Mr. Marshall of Kilkernie, ruling elder, dissented;—“ as making a very material alteration in our constitution, according to which *three* ministers are sufficient for constituting a Presbytery; as bringing those members of that Presbytery, who had openly declared they could not, with a good conscience, concur in that settlement, under the unhappy necessity of disobeying an express appointment of the Assembly; and, lastly, as preventing Mr. Richardson's admission from taking place, seeing it was well known that *three* ministers of that Presbytery were ready to admit him, had the appointment run in general terms, without extending the quorum to *five*; which shows, by the by, that the interest of Mr. Richardson was but a small part of the plan; especially as it is notour, that this settlement might have taken place long ago, in ways followed by our wiser predecessors, and of late too, without involving the Church, or bearing hard upon the consciences of any.”

The Presbytery being accordingly called on Friday the 22d, they all\* appeared, except Messrs. John Liston of

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\* The only member of Presbytery of whom no mention is made throughout these proceedings is Mr. *Hardie*, one of the ministers of *Culross*, who had been laid aside from duty for many months, by the disease of which he died about ten days before the meeting of Assembly (see pp. 113, 141). In the pamphlet formerly quoted, entitled, “ *A Just View of the Constitution*



Aberdour, James Bathgate of Dalgetie, and Robert Steadman of Beath; from whom there were letters of excuse, which were sustained. Mr Steadman's bore, that his bad state of health (as shown by a medical certificate enclosed) rendered it unsafe for him to travel, so that he was not in condition to obey the Assembly's appointment concerning the admission of Mr Richardson, which otherwise he would willingly and cheerfully have submitted to. Messrs. Liston and Bathgate were at Inverkeithing, but could not appear in the Assembly by reason of the indisposition of the one, and sickness in the family of the other. The brethren present were brought to the bar one by one, and interrogated,—If they had obeyed the order of the Assembly? Mr James Thomson of Dunfermline answered, That he went to Inverkeithing on Thursday at ten o'clock, and there met with Messrs Liston and Bathgate; that they caused the Church bell to be rung, and went to the Church, between eleven and twelve o'clock, and waited there till two; that they were required by Col. Arthur Forbes, and others, callers of

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*of the Church of Scotland,*" &c., it is said:—"When the Assembly laid their express commands upon the Presbytery of Dunfermline to admit Mr. Richardson on the Thursday, during the time of their sitting, one of the members of that Presbytery, who had been averse to that settlement, went to Inverkeithing upon the Wednesday. He took occasion to converse with several of the people in the opposition; and particularly with *two women, who it seems have a considerable influence in the place.* He represented to them the strait into which the Presbytery was brought, the danger of disobedience, and how becoming a thing it would be in the people to signify their concurrence, that so the Presbytery might proceed, and meet with no farther trouble in that affair. His arguments had great weight with many,—some of the elders seemed disposed to yield; and there was great hope, that, at a meeting they had appointed next morning, all things would have been made easy. Another member of the Presbytery went also on the Thursday morning to Inverkeithing with the same good intention. But, alas! their endeavours were rendered abortive. Some men of a more turbulent and factious temper, than either the Presbytery, or the people of Inverkeithing, had interested themselves in this matter. Accordingly, early on the Thursday, one P——r, a p——r, arrived from Edinburgh, dispatched, as is alleged, by Mr. W——r [Mr. Webster is no doubt the person here pointed at]; and, introducing himself to several of the people of Inverkeithing, particularly to the *two women* above-mentioned, he gave them the most positive assurances, that the members of Assembly were greatly cooled in that affair;—that if the Presbytery would stand out, not a hair of their heads would be touched; and that it would argue great meanness of spirit in them to comply. He was but too successful in his negotiations;—the people greedily swallowed any thing that tended to humour them in their prejudices: and thus, by this emissary, all the good endeavours of the two ministers were defeated."

Mr Richardson, to admit him, but could not proceed, there being only three of them, instead of the proper quorum *five* required by the Assembly ; and that, before they left the Church, they caused notice to be given, that they would stay an hour or more in town, in a house which they named, and waited accordingly till five o'clock. Mr Robert Stark of Torryburn answered, That he went to Inverkeithing on Thursday morning, in order to converse with the elders and others, and endeavour so far to reconcile them to Mr Richardson's admission as to give him clearness to join in it ; that having met with them, he did all in his power to soften them, but to no purpose ; that so he left the place, and that he had nothing further to offer, but what was contained in a representation signed by him and other five brethren, to which he adhered. Mr James Stoddart of Culross pled his peculiar situation, being by a sentence of the Court of Session found to have no legal title to his benefice (see page 141) ; for which reason he had chosen to behave himself in the manner that appeared to him the most inoffensive, and had acted no part in the present question, or in the other affairs which came before the Presbytery. Mr Robert Stark of Kinross represented, That he was in Inverkeithing on Thursday morning, but did not meet with Messrs Thomson, Liston, and Bathgate, that the main difficulty which lay in his way of carrying Mr Richardson's settlement into execution, took rise, 1, from the sentence of the Commission, appointing the callers of Mr Richardson to prosecute his transportation independently of the Presbytery of Dunfermline ; and 2, from the Act of the Presbytery of Biggar, transporting him to Inverkeithing, while at the same time they continued his relation to his present parish of Broughton : but that as the Assembly had, by their Act appointing Mr Richardson's settlement, removed these objections ; and as he was sensible of the straits his brethren were in, and of the bad effects of disobeying the authority of the Church, he was willing to expose himself to all hazards, and concur with the other three brethren who had shewn their readiness in obeying the Assembly's appointments, in case it should be thought proper to renew it. Messrs David Hunter of Saline, Thomas Gillespie of Carnock, Alexander Daling of Cleish, Thomas Fernie of Dunfermline, and John Spence

of Orwell, gave in the following *humble representation*, signed by them and by Mr Stark of Torryburn, and dated, *Edinburgh, May 22, 1752.*

“ We cannot but be deeply affected with our present situation, in being obliged to stand at the bar of this Venerable Assembly, to answer for non-compliance with any of their appointments.

But as this Venerable court is so good as to allow us to speak in our own behalf, we shall therefore beg leave humbly to represent some of those things which have all along straitened us in the execution of the orders we received, and which still lay such difficulties in our way as we are not able to surmount. And this we hope to do with that plainness and honesty, and at the same time with that decent and dutiful respect to the supreme judicature of this Church, which it is so justly entitled to expect from us.

We need scarce observe, how unjustly we have been represented, as having no other difficulty, but the unreasonable fear of opposing the ill-grounded prejudices of our people.

Nor need we inform this house, that ever since the Act restoring patronages in the end of Queen Anne’s reign, there has been a vehement opposition to all settlements by presentations, where there was but small concurrence\* ; which settlements have already produced a train of the most unhappy consequences, greatly affecting the interest of religion ; and, if turned into the stated and fixed rule of procedure, will, in all probability, be attended with every fatal effect. Now, under such a view and apprehension as this, was it any wonder, or was it inconsistent with that obedience which we owe to our earthly superiors in the Lord, that we should demur and stop short in carrying a settlement into execution, where, in our apprehension, there was by no means such a concurrence of persons residing in the parish, as might give sufficient weight and influence for promoting the great ends of the ministry?

The Assembly know well, that it appears from their own acts and resolutions, entered into their records, that the law of patronage has been considered as no small

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\* *i. e.* very few in the parish, who could be brought to attend on the ministry of the presentee, or to be willing to have him for their pastor.

grievance to this Church, not to say as inconsistent with our union-settlement.

And we find it declared, Act 25th of May, 1736, "That it is, and has been since the Reformation, the principle of this Church, That no minister shall be intruded into any parish, contrary to the will of the congregation; and therefore it is seriously recommended, by the said Act, to all judicatures of this Church, to have a due regard to the said principle in planting vacant congregations,—so as none be intruded into such parishes; as they regard the glory of God, and the edification of the body of Christ." Which recommendation we humbly apprehend to be strongly supported by the principles of reason, and the laws of our Lord Jesus Christ.

And we must be permitted to say, that after repeated endeavours used by committees of the Presbytery, to lessen the opposition to Mr Richardson in the parish of Inverkeithing, matters still remain in such a situation, that we are brought to this unhappy dilemma, either of coming under the imputation of disobedience to a *particular* order of our ecclesiastical superiors, or contributing our part to the establishment of measures, which we can neither reconcile with the declared principles, nor with the true interest of this Church.

On the whole, we cannot help thinking, that, by having an active hand in carrying Mr Richardson's settlement into execution, we should, as matters now stand, have been the unhappy instruments, to speak in the language of holy writ, of *scattering the flock of Christ*; not to mention what may be the fatal consequences of such settlements to our happy civil constitution.

If the Venerable Assembly shall, on this account, judge us guilty of such criminal disobedience, as to deserve their censures; we trust they will, at least, allow that we have acted as honest men, willing to forego every secular advantage for conscience' sake.

In such an event, this, through grace, shall be our support, that not being charged with any neglect of the duties of our ministry among those committed to our care, we are to suffer for adhering to what we apprehend to be the will of our great Lord and Master, whose we are, whom we are bound to serve in all things, and on whom we cast all our care."



The Moderator earnestly recommended to the six brethren, subscribers of the representation, to consider seriously the situation they were now in, and take the opportunity they yet had of saving themselves from the displeasure of the Church: and being asked one by one, If they had any more to offer? they all answered in the negative. After much reasoning, it was proposed to resolve, That one of the six disobedient brethren should be deposed: and the question being put, *Depose or Not?* it carried *Depose*, 93 to 65. Some members dissented, but their names were not marked.

Next day these six brethren were called in one by one; and being asked, if they had any thing further to offer? Mr Stark of Torryburn answered, That he heard there would be some further accession to Mr Richardson, which if he should find to be such as might clear his way, that would open his eyes in the matter. Mr Fernie answered, That as matters then stood, he had no freedom to have an active hand in the settlement: what he might do in the case of a change of circumstances, he could not say till that change appeared. Mr Hunter answered, That as there was no alteration in the case since the day before, as little could there be in his mind and sentiments: if an agreeable accession should happen, it would be neither his inclination nor interest to be backward. Mr Daling answered, That he had nothing further to add; and Mr Spence, That he choosed to add nothing. Mr Gillespie read the following *humble representation*:—

“Whereas, in the representation given in to the General Assembly yesterday, it was set forth amongst other things, “That it appears from their own acts and resolutions, entered into their records, that the law of patronage has been considered as no small grievance to this Church, not to say as inconsistent with our union-settlement;” and whereas this paragraph, expressed, as it is apprehended, in the softest terms, was considered by some members as an aggravation of our non-compliance with their order, I humbly beg leave to lay before this house, a paragraph or two taken from a paper, entitled, *The grounds of the claim of the Church of Scotland for the redress of the grievance of patronage*, entered into the records of the Assembly, May 22, 1736. There, after representing the laws respecting our Church, the Assembly

will find these remarkable words, "That notwithstanding the security of this our happy establishment in all its parts was as great and as solemn as it was possible for human laws and constitutions to devise or execute, yet, in prejudice of that security, as we apprehend, the Act in the tenth year of Queen Anne was passed, restoring to patrons the power of presenting, &c." And the said paper concludes with these words, "That this grievance was brought upon us contrary to the establishment of this Church made at the glorious Revolution, and solemnly confirmed and secured as an essential condition of the union of the two kingdoms." It is now humbly submitted, if we have offended, by saying, as above, "That the law of patronage has been considered as no small grievance to the Church, not to say as inconsistent with our union-settlement?" And I humbly crave, that the whole of the foresaid grounds of claim may be read, and that this my representation may be entered into the records of court, or kept *in retentis* with other papers."

This paper was not received; nor were the grounds of claim read, as craved in it.

After prayer for light and direction, a vote was stated, Which of the six should be *deposed*? and it came out thus: For Mr Stark 1, for Mr Daling 1, for Mr Fernie 1, for Mr Spence 1, for Mr Gillespie 52, and 102 declined giving their voices. Mr Gillespie was therefore *deposed* accordingly.

With respect to the rest of the ministers of the Presbytery of Dunfermline, the Assembly, without a vote, acquitted Mr Stoddart, in respect of his special circumstances; sustained Mr Steadman's excuse; found that Messrs Thomson, Liston, and Bathgate, did their duty; passed from any censure upon Mr Stark of Kinross, for his past conduct, in consideration of the declaration emitted by him at the bar; and,—“The General Assembly, taking to their consideration the case of the remaining five disobedient brethren of the Presbytery of Dunfermline, who have signed the representation to this Assembly; and that by the deposition of Mr Thomas Gillespie at Carnock, they not only have asserted the authority of this supreme court, but have inflicted upon him a censure adequate to repeated acts of disobedience, adhered to tenaciously when at the bar; and that albeit the remain-

ing offenders may have deserved the same censure, as being involved in the same transgression; yet being desirous to mix mercy and lenity with their judgment, do therefore remit to the Presbytery of Dunfermline, to settle and admit the said Mr Andrew Richardson as minister of the parish of Inverkeithing, on or before the 18th day of June next to come, and order an exact list of the ministers who shall be present on that day, for the effect foresaid, to be made up, and entered into the minutes of the Presbytery, with such excuses as may be made by any of them who shall happen to be absent, and the Assembly empowers and requires the Synod of Fife, at their first meeting after the said admission, to consider the said excuses, and either to sustain or reject the same: and the General Assembly hereby *suspends* such of those who shall be absent, and shall not send excuses, from and after the day of the said admission; and such of them whose excuses shall be rejected by the said first meeting of the Synod after the admission, from and after the date of such sentence of the Synod, *from the exercise of their offices in all Presbyteries, Synods, and General Assemblies*, aye, and until they shall respectively testify their sorrow for their disobedience to the acts and ordinances of the General Assembly, either to their own Presbytery or Synod, or to any Assembly, or Commission thereof; upon entering of which into the minutes of the Presbytery, Synod, or Commission, they are empowered and required to take off this sentence of suspension, and to repon them, or any of them respectively, to the full exercise of their office in their judicative capacity: and it is hereby declared, that it shall be competent for any member of the said Synod, to dissent from the judgment of the Synod, sustaining or rejecting the excuses offered; and that such dissent shall be a sufficient foundation for reviewing that sentence in the ensuing General Assembly." Then the ministers having been all called, and appearing, the sentence of deposition was pronounced by the Moderator from the chair, the resolutions with respect to the rest were intimated to them, and the Presbytery of Dunfermline were appointed, at their ordinary meeting on the first Wednesday of June, to fix the day for Mr Richardson's admission, in pursuance of the above recited Act of Assembly.

The sentence of *deposition* was in these words, "The

General Assembly did, and hereby do, in the name of the Lord Jesus Christ, the sole King and Head of the Church, and by virtue of the power and authority committed by him to them, depose you Mr Thomas Gillespie, minister at Carnock, from the office of the holy ministry; prohibiting and discharging you to exercise the same, or any part thereof, within this Church, in all time coming: and the Assembly did, and hereby do, declare the Church and Parish of Carnock vacant from and after the day and date of this sentence." This sentence Mr Gillespie heard with becoming gravity, and spoke as follows. "*Moderator, I desire to receive this sentence of the General Assembly of the Church of Scotland pronounced against me with real concern, and awful impressions of the divine conduct in it; but I rejoice, that to me it is given in behalf of Christ, not only to believe on him, but also to suffer for his sake.*"

The Presbytery met upon the 3d of June, and fixed on the 18th of that month for Mr Richardson's admission. As in the course of rotation, it fell to Mr Thomas Fernie, one of the ministers of Dunfermline, to preach and preside on the occasion, "*he offered reasons why he should not be appointed to do so,*" upon which the Presbytery excused him. Mr Spence of Orwell was named in his room; and Mr Hunter of Saline appointed to serve the edict.

On the 18th of June, when the Presbytery met, it was reported to them, that Mr Hunter had *not* served the edict, but that in his absence, the Precentor had, in obedience to the Presbytery's instructions, read it at the most patent door of the church; and he now returned it with an endorsed execution. "Then enquiry was made whether Mr Spence was come up to preach and preside at Mr Richardson's admission? Report was made by the Church-officer that he had made enquiry, and had been told by the people of Mr Roxburgh's family, that he uses to put up there, and that hitherto there is no notice of him, it being upwards of a quarter of an hour after twelve on the town-clock." There was no letter of excuse from him nor from Messrs Hunter, Steadman, or Daling. Mr Liston of Aberdour wrote to the effect, that "*such was the weather and his indisposition, that he could not attempt coming to Inverkeithing that day.*"



Messrs Stark of Torryburn, and Fernie of Dunfermline, sent a joint-letter, stating that "as their difficulties still remained, and they had ground to think that their taking part in the admission would tend to increase the flame already raised in their bounds, and in a great measure mar their own usefulness, they had not freedom to be active in it; but, at the same time, resolved to treat all their brethren in the Presbytery *with decency and respect, &c.*" Mr Stoddart's letter has already been given in the note at page 141. Mr Spence not having made his appearance, the Presbytery appointed Mr Bathgate of Dalgety, to preside, who preached on Matt. xvi. 18. "Thou art Peter," &c.; and then admitted Mr Richardson to be minister of Inverkeithing, with the usual formalities.

The author of the pamphlet already quoted, entitled "A Just View of the Constitution of the Church of Scotland, and of the proceedings of the last General Assembly in relation to the deposition of Mr Gillespie," gives the following as a statement of facts, "which," he says, "will not be contested."

"The people of the parish had no colour of an objection to the presentee. Mr Richardson's character as a minister, his reputation for preaching, for his distinguished loyalty,\* is so well established, that there are few parishes in Scotland who would not gladly accept of him: and the people of Inverkeithing, when he was first proposed to them, discovered no sort of aversion to him;

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\* There is probably a reference here to Two Sermons which *Mr Richardson*, when minister of Broughton, preached and published about the time of the Rebellion, with the title of "A True and an Arbitrary Government compared." In 1759, there appeared from him, "The Necessity, Usefulness, and Importance of Social Worship, and Public Instruction, with a Dissertation on Positive Institutions"—extracts from which have been given by Sir John Sinclair, in his "Analysis of the Statistical Account of Scotland." Expecting to find some notice of it in the periodicals of the day, I consulted the *Scots Magazine* for 1759, and found the only thing said about it is what follows, which one may almost suspect to have been written by a member of the *Relief*:—"Critics in the English language will perhaps consider the following *erratum*, relating to *these* and *those*, marked in this book, viz., 'This hath been the constant practice of the Churches; not only of *those* which have, in a great measure, adhered or returned to the original plan of genuine Christianity; but also of *those*, which, in different respects, have departed, and continue swerving, from the purity and simplicity of the divine commandment.' *Erratum*, 'for the second *those*, read *these*.'"

but, on the contrary, seemed to be fond of his being their minister, until once he accepted of the presentation. Here is the cause, then, of this mighty struggle they have made, his accepting the presentation ; a thing which the law requires, is necessary to entitle a man to the benefice, and which at any rate it was not in his power, nor in the power of the Church, to remedy. It is easy to see, what countenance an opposition so wanton, so unjust and ill founded, merited ; and what must be the consequences, if parishes are gratified in such unreasonable humours. Before and after the appointment of the Church to proceed to the settlement, out of 1200 examinable persons in the parish, no more than 150 heads of families appeared against him, and they never offered one single objection. When the last Assembly appointed the Presbytery of Dunfermline to proceed to the settlement, there was a majority of legal voters for him, and the concurrence of twenty-four heads of families with his call, formally given in : and on the day when he should have been admitted, there were three more of the town-council, with a good number of the heads of families, ready to have signified their concurrence to the Presbytery, had they met ; and who ever since his admission have gone regularly to hear him. When at last he was admitted, there were twenty-four legal voters for him against sixteen ; amongst the first were all the landed interest, except one feuar of £31, Scots of valued rent. Now, let any impartial man judge, if the sentence of the last Assembly, appointing the admission of Mr Richardson, contradicted any of our standing Acts, when there was an undoubted presentation, a majority of legal voters, an opposition only from 150 heads of families out of a parish consisting of 1200 examinable persons, and that opposition founded entirely upon the most unjust and causeless prejudices, *viz.* Mr Richardson's having accepted a presentation."

The following are the reflections of Sir Henry Moncrieff:—

" The censures of the Church, on this occasion, fell on individuals, who were all acknowledged to be men of integrity and principle ; of whose sincerity there was no suspicion. Mr Gillespie, in particular, on whom the severest censure fell, was charged with nothing but absence from Inverkeithing, on the day appointed for the induc-

tion of the presentee : for, excepting his attendance, he had no official duty imposed on him, which could have been affected by his absence. It has always been admitted, by those who had best access to know him, that nothing but what he considered as a sense of duty, had prevented him from obeying the appointment of the Assembly. He was indeed one of the most inoffensive and upright men of his time. He was equally zealous and faithful in his pastoral duties ; and his private life was irreproachable. His talents were certainly underrated by those who marked him out, among his brethren, as the most eligible victim of a disobedience, in which so many were associated. But he had done nothing to distinguish him from the rest. He had never entered deeply into ecclesiastical business, and was at no time a political intriguer. And, when all these circumstances are considered, there was at least great reason to have hesitated in pronouncing on him a sentence of deposition. But the Assembly seized on this occasion, to bear down, by a strong example, all future opposition to church authority. His deposition gave rise to a new sect of Dissenters, afterwards known by the designation of ‘the Presbytery of Relief;’ which has maintained itself ever since, and has added a considerable population to the Dissenters from the Established Church. Mr. Gillespie became the founder of this sect, very unwillingly. He was partial to the Establishment to the end of his life ; and of this he gave a striking proof, when, on his death-bed, he advised his congregation to apply to the Church, after his decease, to be restored to her communion—which they afterwards successfully did.”\*

As to the ministers who were absent on the day of the ordination, the excuses of Messrs. Stark (of Torryburn), Fernie, Liston, and Stoddart, appear to have been sustained as valid by the Synod of Fife ; and Mr. Steadman of Beath, seems likewise to have made a submission which proved satisfactory. But Messrs. *Spence* of Orwell, *Hunter* of Saline, and *Daling* of Cleish, were, in consequence of the Assembly’s sentence, *ipso facto* suspended from their judicial functions in all Church-courts, except their own Sessions ; and under this sentence they remained

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\* Appendix to the Life of Erskine, p. 460.

until the Assembly 1765 (a period of *thirteen* years), when on a Report from the Committee of Overtures, that "these gentlemen had, since falling under that sentence, behaved with all due submission, and lived in good correspondence with their brethren, and that the Presbytery of Dunfermline must sustain a loss through the want of their assistance,"—the Assembly took off the sentence of suspension, and reponed these brethren to their former judicative capacity.

With respect to Mr. Gillespie's conduct immediately after his deposition, the writer of "a Letter by a Layman," published in his defence, says:—"To this sentence, however, he has submitted in its full extent, readily relinquishing all the temporal emoluments arising from the legal Establishment. On the Lord's day following, he would not so much as preach in the church of Carnock [as some of the deposed Seceders had continued to do in their churches], nor allow the bell to be rung, but repaired to the open fields, and having chosen for his text, 1 Cor. ix. 16. *For necessity is laid upon me ; yea, woe is unto me if I preach not the Gospel*,—he told his hearers, that though the Assembly had deposed him from being a minister of the Established Church, for not doing what he believed it was sinful for him to do, yet he hoped, through grace, no public disputes should be his theme, but Jesus Christ and Him crucified ;—he desired at all seasons to have it in his eye, *that the wrath of man worketh not the righteousness of God*, and then went on to lay before them the great and fundamental truths of the everlasting Gospel, without one reflection on all that had passed."

Why the Assembly should have been almost unanimous in singling out Mr. Gillespie as the victim, has never been very satisfactorily explained. *Sir Henry Moncrieff* seems to ascribe it to the supposed comparative inferiority of his talents ; but we possess no evidence of the Assembly having formed that opinion of him ; and, admitting them to have done so, it ought surely to have been rather a plea for leniency. Nor is there any proof of his having been more active in opposing Mr. Richardson's settlement than the rest. The two members who defended the Presbytery at the bar of the November Commission were Messrs. *Spence* of Orwell and *Hunter* of Saline. The former was the person appointed to preside at the admission—an ap-



pointment which he disobeyed—yet was there only *one* vote for his deposition; and for the deposition of the other *not one* voted,—although, judging from the Presbytery records, he was not the least forward in the whole business. The only thing we can trace on the face of the proceedings which may have made Mr. Gillespie peculiarly obnoxious at the close, was his giving in an *additional* representation, where he persisted in quoting from a paper,\* the allusion to which, in the *first* representation, “had,” he admits, “been considered by some members as an *aggravation* of the non-compliance with their order.”

There were, moreover, circumstances in the former history of Mr. Gillespie which may, on this occasion, have operated against him in the minds of many. When a student of divinity, he had gone to Perth to attend the lectures of Mr. Wilson, the Seceder Professor; and, though he continued there only ten days, being dissatisfied with their principles, he had afterwards (in the year 1740) gone to England, and received license and ordination from a *Class* of English Dissenters, Dr Doddridge being Moderator. It is likewise rather a remarkable circumstance, and not generally known, that when he signed the *Formula* and *Confession of Faith* at his admission at Carnock, it was with an explanation or reservation respecting *the power of the civil magistrate*.†

After his deposition, he continued for some months to preach in the fields; but a meeting-house having been provided for him at Dunfermline, he regularly officiated there during the following winter and spring, “waiting patiently the event of the Assembly 1753.” When that body met, two petitions, and several overtures and instruc-

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\* The paper referred to is not to be found in the *printed Acts* of Assembly; but in the “*Letter by a Layman*,” published a few days after Mr. Gillespie’s deposition, copious extracts are given from it, of which the following is the most remarkable:—“That it is well known, and has always been declared, that the foresaid Act of Queen Anne, restoring patronages, was imposed upon this Church by means of persons of our own country, who were enemies to the Protestant succession, as they soon after discovered in the strongest manner, and enemies to this Church, by reason of her inviolable adherence to that succession; and was by them intended to afflict and oppress this Church, and create discontents amongst the people therein, and to open a door for patrons, arbitrarily to impose upon the people, as ministers, persons proper for instilling into their minds principles of disloyalty and disaffection to our present happy constitution.”

† My authority for these facts is the “*Case for the Donors*” of his church, laid before the Assembly of 1774.

tions, in relation to the reponing of Mr. Gillespie and the three suspended brethren, were taken under consideration on Wednesday the 30th May. One of the petitions was from certain heritors, elders, and heads of families, of the parish of Carnock, setting forth the good success which Mr. Gillespie's ministry had had amongst them ; and therefore craving, that it might please the Venerable Assembly to remove the sentence of deposition, and repone him again to his ministry and labours among them. The other petition was from the Presbytery of Dunfermline, representing their being sensible of the loss they sustained by the deposition of Mr. Gillespie, and the suspension of Messrs. Hunter, Daling, and Spence, from sitting in church-judicatures ; and craving that it might please the Venerable Assembly to restore Mr Gillespie to the exercise of his ministry in this Church, and the other three brethren to the full exercise of their judicative capacity, upon such application from themselves as should seem proper to the Venerable Court, and directly to appoint Mr. Gillespie to supply the vacancy of Carnock. To this petition was subjoined a declaration of the sentiments of two of the ministers,\* that they could not approve of this measure of the Presbytery, because none of the brethren mentioned in the petition had signified their desire to the Presbytery to make such an application in their name. After the petitions, the overtures relative to this affair were read. At the desire of some members, the Moderator inquired, if any application to the Assembly was given in to the committee for bills from Mr Gillespie, or from the other three brethren, to have the censures inflicted upon them by last Assembly taken off? and was answered, That there was not. Being desired, he further inquired, if any member was possessed of any such application from him or them? To which no answer was made as to Mr. Gillespie; but as to the other three brethren, Mr. John Erskine represented, That by a letter he had from them, and what had formerly passed in conversation with them, he was assured, that their not applying did not proceed from any disrespect ; but that the reason of it was, that the sentence of the last Assembly, suspending them from acting in their judicative ca-

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\* No doubt these were Messrs. Thomson of Dunfermline, and Bathgate of Dalgety.

capacity, had made the condition of their being reponed such as they had not freedom in their minds to comply with : but that from their regard to the authority of the Church, they would continue humbly to submit to the censure, till the Assembly should think fit to loose them from it. The case of Mr. Gillespie was then taken under consideration. After reasoning at great length, the question was put, *Repone* or *Not*? by *Repone* being meant, to restore him to the exercise of his office as a minister of this Church, and a capacity of a call to a parish in the Establishment ; and by *Not*, that it should be open to Mr. Gillespie to apply when he pleases to the Assembly for his being reponed. It carried *Not*, by a majority of *three*.

A motion was made, next sederunt, that the Commission be empowered to take in Mr Gillespie's case, and give judgment upon it, upon application from him, signifying that it is his earnest desire to be reponed, and that he would esteem it as a privilege. After some debate, it was proposed to put the question, *Agree to the motion*, or *Not*? But it being the opinion of some members, that the putting of this question was inconsistent with the honour of the court, and the resolution passed by them on Wednesday, it was agreed to put the previous question, *Whether a question should be put upon the motion or Not*? and it carried *Not* by a majority of *three*.

It was not until after these decisions of the Assembly 1753, (carried, it will be seen by very narrow majorities,) that Mr Gillespie constituted a Session and Congregation, though I find it alleged that he had, before this period, baptized children without proper certificates. The principles upon which his church was formed are thus described by the proprietors, in their application to the Assembly of 1774, to receive it as a Chapel of Ease, in connection with the Established Church :—

“ It cannot be denied, but that the motive for which the people subjected themselves to his ministry, was pure regard to him, and upon the account of his sufferings, and not from any divisive principles ; and that many of them continued to join occasionally in communion with the Church ; and as a proof that he was of no divisive principles from the Church of Scotland, he invited several of the ministers to assist him at his first communion at Dunfermline, and for several years continued to write letters

to them for their assistance ; and when he was no longer favoured with it, although he might have got assistance from dissenting ministers in England, he choose rather to take the whole of the communion-work upon himself, which he did no less than thirteen times alone ; and every one of those times, which was within about five years, he preached no less than nine sermons, and served seven or eight tables, besides all his other private work at that time. During the course of his ministry at Dunfermline, he admitted persons to the sacrament, on producing lines from ministers of the Church of Scotland, refusing none who brought lines from any of their ministers ; and as freely gave lines to any of his hearers who wanted to join occasionally in the Church of Scotland.

“ The step he at last took in taking assistance, will appear to have flowed from pure necessity, as, perhaps, not one man has gone through as much ministerial work in so short a time, in a century. And to show that he still retained an affection to the Church of Scotland,—towards the close of life he was for his people uniting in connection with that Church, as those in Leith, and the Relief Congregation now in Glasgow have done : and indeed he was the more ready to advise that, as he knew the most solid part of his people was always of those sentiments.”

The formation of the “ *Presbytery of Relief* ” did not take place till nine years after Mr. Gillespie’s deposition. It was constituted at Colinsburgh in Fife, on the 22d Oct. 1761, the original members being Mr. Gillespie, a Mr. Collier, and Mr. Thomas Boston, (son of Boston of Ettrick,) formerly minister of the parish of Oxnam, and afterwards of the Relief Congregation of Jedburgh.

An overture for taking off from Mr. Gillespie the sentence of deposition, was brought before the Assembly of 1769. The vote was put, *Approve* or *Delay till next Assembly*, and it carried *Delay*, 65 to 61. At the Assembly 1770, the question proposed was *Repone* or *Not*, and the numbers were *Repone* 39, *Not* 72.

Mr. Gillespie died on the 19th Jan. 1774. There appeared a few months after his death, his “ *Treatise on Temptation*,” edited by Dr. Erskine. In 1771, he had published “ *An Essay on the continuance of Immediate Revelations of facts, and future events in the Christian Church ; with a letter on the danger of considering the influences of the*



Spirit, as a rule of duty, by the late Mr James Cuthbert, minister of Culross ; and a preface by Dr. John Erskine.\* Though the application to receive Mr. Gillespie's chapel into communion with the Establishment was made to the Assembly of 1774, yet being keenly opposed by the ministers of Dunfermline, the measure did not finally pass until 1779, a period of *five* years—which shows at once the anxiety of the people to rejoin the Church, and the cruel impolicy of throwing so many obstacles in their way.\*

We now resume the account of the other proceedings of the Assembly.

A petition of Mr David Thomson, minister of the English Reformed Church 'of Amsterdam,† in behalf of the *German Protestant Churches settled in Pensylvania* and other parts of North America, was presented ; setting forth their distressed circumstances for want of ministers and schoolmasters, and the means of supporting them ; and craving that a collection should be made at the Church-doors for them. With this petition were presented letters from three several bodies, by whom Mr. Thomson was commissioned to apply to their brethren in Great Britain and Ireland, and earnestly implore their assistance in this common cause of Christianity and the

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\* The proceedings of the Assembly 1752, in the case of Mr Gillespie, called forth a variety of anonymous pamphlets. In defence of the Assembly, there appeared "A Just View of the Constitution of the Church of Scotland," already noticed at p. 242: "the General Assembly Vindicated," (in answer to the "Loud Cry" mentioned afterwards): "Some thoughts relating to the submission due to the Supreme Judicature of the Church," in Two Letters.—On the other side of the question, there appeared "a Letter by a Layman:" "A Loud Cry for Help to the Struggling Church of Scotland:" "The Terms of Ministerial and Christian Communion imposed by a prevailing party in the General Assembly," with an Appendix relating to the "Just View," &c.: "A Juster View of the Constitution of this Church ; in answer to the 'Just View,' and to the new principle of the right of Presbyteries to elect the pastors in their bounds:" "Private Judgment Defended, or the lawfulness and duty of refusing obedience to the highest Church judicatures, when their commands are judged unlawful:" "The Nature of the Ecclesiastical Government, &c.," (by the author of the "Terms of Communion.") "Inquiry into the powers committed to the General Assembly, and the Nature of Deposition from the Ministry."

† He was afterwards at Rotterdam, and then became minister of Gar-gunnock ; and in an evil hour, accepted a presentation to St. Ninians, which brought him into much trouble. He was a correspondent of Dr. Erskine. See Moncrieff's Life, p. 153.

Protestant religion, *viz.* one from the deputies chosen by the Synods of Holland for promoting this charitable work, another from the Presbytery of Amsterdam, and a third from the consistory of the English Reformed Church there. A collection was appointed to be made accordingly.

Upon a narrative, "That a great many *Presbyteries* neglect to send up their opinions concerning overtures transmitted to them, by which the considering of several overtures hath been postponed," the Assembly enacted, That when an overture has been twice transmitted, the Assembly will, without further transmission, take it into consideration, and pass it into an Act, or reject it, as they shall see cause, although *Presbyteries* shall not have sent up their opinions.

A committee of twenty-two ministers and eleven ruling elders, of whom five to be a quorum, three of these to be ministers and two ruling elders, were appointed to draw up a complete set of rules *for regulating the method of procedure in causes before the Assembly*, to be laid before the Commission in November, who are to prepare them fully for next Assembly.

The following persons, *viz.*, The Moderator, Principal Campbell of Glasgow, Principal Muirison, Professor Lumisden, Professor Pollock, Messrs. James Mackie, Robert Paton, Alexander MacLagan, Alexander Gordon, Alexander Macbean, Robert Hamilton, George Fordice, George Kay, Gilbert Hamilton, John Hyndman, Robert Thomson, James Allan, William Walker, Theodore Gordon, David Duncan, and William Bennet, ministers, and the Lords President, Justice-Clerk, Advocate, Drummorie, Shewalton, Provost of Edinburgh, and Conservator [of Campvere], Messrs. Andrew Pringle, Gilbert Elliot, David Dalrymple, Robert Pringle, James Erskine, Robert Dundas, and James Anderson, and Conventer Ker, ruling elders, were named as a committee to have under consideration what is *the power of kirk-sessions in the management of the poor's money*, (see p. 187, 218,) and to report their opinion to the Commission in November; who are appointed to prepare an overture thereupon to the next Assembly. Of the above committee seven are to be a quorum, four of these to be ministers.

The General Assembly, in respect of a late Act of

Parliament changing *the Calendar*,\* appoints, that the Synods which usually met on the first Tuesday of April or October, shall meet on the second Tuesday of these months, according to the new style; that those who have been in use to meet on the second Tuesday of the said months, shall meet on the third Tuesday new style, and so of the rest, advancing a week in the denomination of the days, whatever month or week of that month any of the Synods have been in use to meet in; and such Synods as have already adjourned, shall have their next meeting according to the above appointments.

A Latin Letter of thanks received from the Protestant Church of *Breslau* in Silesia, for the collection made through Scotland for relief of that Church, in pursuance of the General Assembly's recommendation in *anno* 1750.

The report of the Commissioners appointed by the General Assembly 1750, to apply in their name to the King and Parliament for the purpose mentioned in their Commission, (the *Augmentation Scheme*) called for, produced and read, containing an account of their proceedings, as recited in their letter to the last Assembly, with what was done since that time, and that at last *their affair was put off by the House of Commons near the end of the Session*; the faithfulness and diligence of the said Commissioners approved of, and the thanks of the Assembly returned to them for the part they acted, as having done all in their power in the important affair committed to them. [The Commissioners' Report specially bore, that the business was delayed by the Mid-Lothian Committee. "So much time was spent in preparing the affair for the Committee (of the House of Commons,) that sufficient time was not left for bringing in a bill upon our petition, that could be carried through both houses during that Session; and at last, it was put off near the end of the Session in a thin meeting, when all our friends were gone to the country, and, but a few more in it, than was sufficient to make a *quorum*.]

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\* By this Act, the day which followed Wednesday, *September the 2d*, was called Thursday, *September the 14th*. The Trustees of the Widows' Fund ordered the annual lists which used to be made up to November 11th, to contain henceforth all facts down to November 22d; and Annuities formerly payable at Whitsunday, were made not payable till the 26th of May. The change gave rise to various disputes about stipend, crop, &c.

A petition and complaint of the patron, heritors, and others of the parish of *Terreagles*, callers of Mr. George Heron, minister at Island-Macghie in Ireland, to be their minister, against the Presbytery of Dumfries for not obeying the sentence of the Commission in November last, appointing them to proceed to the settlement of Mr. Heron at Terreagles on the 20th of February thereafter, together with a representation by the said Presbytery, containing their reasons for delaying to execute the said sentence of the Commission in November, until first they had a conference with him. As also, the procurator for certain heritors and others of the said parish, opposers of Mr. Heron's settlement, who had protested for liberty to complain of the said sentence of the Commission, heard; the Commission found not to have exceeded their powers; and it being proposed that before proceeding to Mr. Heron's settlement, there should be a conference held with him by the Presbytery, joined with some ministers of the Synod, the Assembly appointed the Presbytery to proceed, without any conference, to the admission of Mr. Heron as minister of Terreagles, betwixt and the 20th day of August next; and the Commission empowered to determine in any reference or appeal that may be brought before them with respect to that settlement. The Presbytery of Dumfries are advised to give notice to Mr. Heron of the above appointment, by writing both to himself and the Presbytery in Ireland to which he belongs. [This case had also come before the March Commission, but it was held not to have been brought up regularly, the Presbytery being sisted "before the Commission," or "before the Assembly," and this alternative was deemed fatal to the citation. The difficulty which the Presbytery chiefly founded upon in their opposition to the settlement was, "an alleged conference Mr Heron should have had with the elders"—in which I presume they had found his answers unsatisfactory. The Presbytery afterwards proposed, "that any of their number might in court converse with Mr. Heron upon such points of Divinity, as should give satisfaction as to his ability and fitness for being minister of Terreagles, where it was alleged popery prevailed. This Mr. Heron *modestly declined*, as carrying along with it a tacit reflection on the Presbytery of Ireland where he was ordained." The Assem-



bly held, that as he was already an ordained minister, he was presumed to be sufficiently qualified, so that there was no necessity for such a conference. On the question being put, "*Conference or Not*," it carried *Not*. There appeared immediately after, two pamphlets by *Mr. John Lawson* of *Closeburn*, a member of the Presbytery; the one "A speech concerning the settling of parishes generally, and particularly that of *Terreagles*"—the other "The Discovery of a most enormous evil, highly dangerous to Presbyteries, and to the Constitution of the Church of Scotland, and a remedy thereof." The "enormous evil" appears to have been the recognition by the Assembly of the validity of Irish ordination.]

An appeal of *John Carruthers* of *Holmains*, patron of the parish of *Dalton*, from a judgment of the Synod of *Dumfries*, finding two sentences pronounced by the Presbytery of *Lochmaben* to be premature, the first dated 19th December last, sustaining a presentation granted by him to *Mr. William Gullan*, probationer, to be minister of the said parish, and the other dated 3d of March thereafter, refusing the desire of a petition by several parishioners for a moderation at large, and remitting back to the Presbytery to proceed in this cause, as if no such interlocutors had been past, heard,—with a petition of the said Presbytery, appellants, from the above recited judgment of the Synod; *Mr James Lindsay*, a member of the said Presbytery also heard upon the subject matter of his complaint and dissent from their proceedings:—and the said Presbytery, appointed to moderate in a call to the said *Mr. William Gullan*, the presentee, *alone*, in order to his settlement as minister of *Dalton*, according to the rules of the Church.

It will be seen, that there had appeared at the bar in the foregoing case, *Mr James Lindsay* of *Lochmaben*, a dissenter from the Presbytery's proceedings. But it was objected that he had no right to appear as a party, considering an opinion of the Assembly 1738, as to the right of a member of court to dissent, and to take a protest, and complain to the superior judicatory in a case where he was not directly a party. It was agreed to hear *Mr Lindsay* upon the subject matter of his complaint, and that the Assembly shall afterwards take the question under consideration, how far a member of an in-

ferior court shall be allowed to bring a sentence of that court by a complaint before a superior judicatory, in order to the reversing of such sentence, and that the Assembly shall form a new resolution thereon for the time to come. Accordingly, the Assembly remitted to the Committee for overtures, to prepare and bring in an overture, and on their report, the following overture was ordered to be transmitted to Presbyteries, that they may report their opinion of it to next Assembly. "The General Assembly considering, that the appearing of Dissenters against particular judgments of inferior courts, hath created much trouble to the superior judicatures: for remedying whereof in all time coming, enact and ordain, That in all causes litigated betwixt parties before any inferior judicatures, when judgment is given in such way as one or more members think themselves obliged to dissent, this shall give them no title to appear before superior courts in opposition to such judgment, unless they be called upon to defend themselves against censure, according to the Act of Assembly 1644 anent dissenting voices."

The question regarding the *admission of the Chaplain of Edinburgh Castle to a seat in the Presbytery*, (which had been referred to the last Assembly, see p. 217), came before the present Assembly for a final decision. The Presbytery had, by a majority, agreed to his admission, but there were in the minority respectable names belonging to both parties in the Church. The Synod affirmed the Presbytery's judgment; and the case now came up by "a petition and complaint of Principal Wishart, Messrs. Robt. Wallace, Alex. Webster, and John Jardine, that judging the constitution of this Church, and their own rights as members thereof, lesed by the said judgment, admitting Mr. John Johnston, Chaplain of a company of foot and garrison in the Castle of Edinburgh, a member of the Presbytery of Edinburgh, &c." There likewise appeared as Dissenters from the Synod's sentence, Messrs. Thomas Turnbull, William Robertson, John Home, Alexander Carlyle, George Logan, Alexander Glen. The day previous it had been agreed, in order "*to save the Assembly's time from being taken up by a number of parties speaking at the bar,*" that two only shall be heard on either side of the question. This resolution having been now intimated,

a doubt arose as to who were proper parties. It was agreed that those who were constituent members of the Synod and Presbytery, when this cause was determined, are not to sit as judges in the Assembly; and that those elders who had been elected by their respective Sessions to represent them in the Presbytery, and ensuing meeting of the Synod, or that were at the opening of the Synod reported by their ministers to have been elected, *were* constituent members. Then Messrs. Robert Wallace and Alexander Webster were heard on the part of the Dissenters and Complainers, and Messrs. James Watson and John Hyndman for the Synod and Presbytery; when, after long reasoning, the sentences complained of were *affirmed* without a vote.—The primary object of Mr. Johnston's application seems to have been to obtain a right to be admitted a contributor to the Widow's Fund (see p. 63). He did not remain in Edinburgh long after this, having in 1754 exchanged situations with Mr. Haig, the unpopular presentee to Biggar.

A sentence of the Synod of Fife, affirming a judgment of the Presbytery of Cupar, sustaining a call by the heritors and elders of the parish of *Abdie* to Mr Robert Wingate, to be minister of that parish, affirmed by a great majority, and the said Presbytery appointed to proceed to his trials and settlement as minister of the parish of *Abdie*, according to the rules of the Church. The other candidate was Mr. Robert Deans, whose friends alleged that he had the majority of legal electors.

The Overture brought in concerning the management of the public funds of the Church, and paying off the debts contracted thereon, read and approved, bearing, that payment be made to Mr. David Dalrymple, procurator for the Church, of the sum of £819. 10s. 1d. sterling, disbursed by the *Commissioners sent to London*, with interest thereof from Whitsunday last, till it is repaid; that the viaticums for this year be paid; that the expense of carrying on processes at the public charge, already ordered by the Assembly, shall be defrayed by the agents for the Church, till such processes are brought to a conclusion; that till the principal sums and growing interests thereof, due by the Church, is cleared off, no more viaticums are to be paid; nor any more processes carried on at the public charges of the Church. That,

till these debts are paid off, the Church's Funds shall be laid out as follows, viz., 1mo, For paying the salaries due to their officers; 2do, The interest growing annually due on the debts owing by the Church, and the expense of the processes already ordered to be carried on; 3tio, The debt due to Messrs. Wallace and Wishart (see p. 63); 4to, The debt due to Mr. Woodrow (see p. 35); and, lastly, the debt due to the Commissioners sent to London. Several of the lawyers, members of the Assembly, having, in order to save the expense of the Church, signified their readiness to appear in causes wherein the Church may be concerned, *gratis*, received the thanks of the Assembly.

The procurator and agents for the Church appointed to appear in their stations, in a process at the instance of the Synod of Merse and Teviotdale, for having the parish of *Longnewton* provided with a minister of its own, or annexed to some neighbouring parish; and to call for the assistance of the other gentlemen lawyers who have offered their service to the Church.

A report from the committee for overtures respecting a letter produced to them, directed to the Moderator of this Assembly, subscribed by heritors and elders of the united parishes of *Bressa* and *Burra* in Zetland, complaining of their want of gospel ordinances, through the long absence of their minister, Mr. Matthew Moncrieff, and inclosing two petitions which had been given in to the Presbytery of Zetland, complaining as above, and craving redress, brought in, bearing, that the committee had heard Mr. John Barclay, member of this Assembly, from that Presbytery upon this subject, and were informed, that Mr. Moncrieff had been obliged to leave that place by reason of want of health; that from the time of his leaving it, he had been endeavouring to provide one to supply his charge, but had by certain accidents been disappointed; that now one was actually gone for that purpose; and the opinion of the committee, that a letter be written to these elders, acquainting them with what is above represented, and that it be left to the Presbytery of Zetland to give judgment upon the said petitions and complaint as they see cause, and that the Commission be empowered to take in and finally judge of any question which may be brought before them, by reference or appeal from that Presbytery relative to the said complaint, approved of.



A petition of the Commissioners from the Presbytery of Kintyre, bearing, that there are numbers of people in their bounds who, though they can read the scriptures, yet do not understand the same in the English language, and, in regard the *Irish Bible* is entirely out of print, craving the Assembly would grant them such a number of the Irish Bibles, deposited by the Church in the divinity libraries of Edinburgh and Glasgow, as they shall judge proper; referred to the Commission, that they may enquire into the facts therein set forth, and do therein as they see cause.—[The Commission referred the matter to the committee on the Royal Bounty.]

Reference to the Commission to consider a petition for the trustees of the *College of New Jersey*, praying for a national collection for the benefit of the said college.

Protestation admitted at the instance of the Synod of Dumfries, against the Presbytery of Chirnside, and parishioners of Ayton, for not insisting in their appeal from a sentence of the said Synod, refusing to transport Mr. John Dickie from *Langholm* to the said parish of *Ayton*.

The Moderator addressed the Assembly in the following speech:—

“RIGHT REVEREND AND RIGHT HONOURABLE,—As you have done me the honour to place me in this chair, and to repose so great a trust in me; as you have approved of the Report of the Commissioners appointed by the General Assembly 1750, of whom I had the honour to be one, to address King and Parliament for relief to many ministers in circumstances of distress; *as you have unanimously passed our accounts, and provided in the best manner you could for the payment of them*,—I am under the strongest obligations to return you my most humble and hearty thanks. We have not succeeded, and want of success is often imputed to want of skill. You have candidly approved our conduct, and therefore I must be lost to all gratitude, if I did not, upon every occasion, according to the best of my abilities, promote the interests of the Church of Scotland in general, and of every particular member of it. The state of our Church is now better understood than ever it was; and I hope in God the time will come when she shall be relieved in such a manner as to give her a distinguished rank amongst the Protestant

churches. We may without vanity and ostentation, we may with truth and confidence maintain, that in piety and faithfulness, in the discharge of ministerial duties, and in zeal for promoting true religion, she is excelled by none. It must give us great pleasure that a correspondence is carrying on with the churches of the United Provinces,—and I doubt not but we cheerfully embrace the opportunity now given us of propagating true religion in the American Colonies,—that that religion which, with grief of heart, we see languishing in many places amongst us, may flourish there, and triumph over ignorance, idolatry, superstition, and vice. Our strength, our dignity and glory, will arise from the joint-endeavours of all ranks to advance the true interests of religion and liberty. To promote these great ends, let us lay aside all animosity,—seek peace and ensue it with those who have differed from us,—if we have provoked any, if we have been provoked by any. Let it be our assiduous care to heal any breaches that have been made, that we may defeat the designs of our enemies, and render ourselves worthy of the esteem of our friends.

“The General Assembly have decided several cases of great importance. One there was which engaged the attention of the whole Church, *viz.*, the disobedience of the Presbytery of Dunfermline to the orders of the General Assembly. His Majesty's Commissioner was pleased in his speech from the throne to recommend with just concern our preserving the regular subordination of our judicatories, which cannot be preserved without a just obedience to the orders of the Supreme Court. Something was necessary to be done to remedy a growing evil, to prevent anarchy, and strengthen that constitution which was settled in the fifteen hundred and ninety-two, and confirmed to us by the articles of the union. We are ministers of the Gospel of Christ,—we are also ministers of a Church established by law, but a subordination of judicatories is established by law. If this is not preserved, we give up our constitution, and the legal advantages of it—we, ourselves, abandon that right we have by the articles of the union. Far am I from thinking that every difference in judgment destroys that subordination; but what signify acts if they are not executed, and how can there be any government, if there is no last resource,

and what must follow, but a dissolution of this frame of government, which will make it necessary that another be established, for neither can we ourselves endure anarchy, nor will the civil government suffer it to continue long. It has been always said by our enemies; and, indeed, if it were true, it is the strongest argument against Presbytery, that it has not strength to support itself. It was therefore necessary that something should be done to maintain the authority of the Church. I know it will be a prejudice against what the Assembly have done, *that the argument was supported by several young members,\** but it was by young men in defence of our old constitution. The terms upon which we became ministers of the Established Church are fixed and known, are approved and subscribed to by us. If the consciences of some cannot come up to these terms which are thought essential to our constitution, they may be deprived of the legal advantages of the Church. God forbid, that those who cannot come up to these terms are not good men! but this may be said, that they are not good Presbyterians. And here may I presume humbly to recommend it to my brethren, nay, even to my fathers in the Church, to study the nature of government, to cultivate your minds by learning. I confess the narrow circumstances of a great many deny them opportunities of making learned improvements. Happy were it for us, if the great business of our Assemblies were to promote learning, as well as true religion. The genius of our countrymen is as good as that of others; but we do not make the same figure in the learned world that others do, that they once did. To inquire into the causes of this is too delicate a subject for me to enter upon, and would take up more time than your patience would allow. Certain it is, that every man has something peculiar in his character by which he is distinguished from every other man. Great improvements have been made in science, and great entertainments given in conversation by cultivating one's own genius. He may make great progress in knowledge, and successfully promote the public good. But when I recommend learning, it is with a view to promote true religion, and the salvation of im-

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\* This is an allusion to Robertson, Home, and others, who had appeared at the bar as Dissenters from the judgment of the Commission in the case of Inverkeithing.

mortal souls ; views that are terminated by this small spot of earth, and this narrow point of time, are mean and low ; let us stretch forward to eternity, let us attentively consider, let us never lose sight of the great end of life, the great end of our ministry, let us steadily pursue it under his conduct, who is the Father of Lights, and the author of every good and perfect gift, that when Christ, who is the Chief Shepherd shall appear, we may receive a crown of glory that fadeth not away.

“As this Assembly is now to be dissolved, and what causes have not been determined are referred to their Commission, let us return to our particular charges with deep impressions of the Divine mercy in preserving this Church so long, and of the great goodness of our gracious Sovereign, in so cheerfully countenancing our General Assemblies. Let us return with hearts full of gratitude to the King of Kings, of loyalty to his Majesty King George, of love to one another, of charity to those who differ from us, and of compassion to those who are in circumstances of distress. Let us be animated with such an elevated and sublime piety, as will make us superior to all the goods and evils of this present state, that when we have finished our labours, and the ministry we have received of the Lord Jesus, we may go into Mount Zion and into the city of the living God, our heavenly Jerusalem, to an innumerable company of angels, to the General Assembly and Church of the first born, which are written in heaven, and to God, the judge of all, and to the spirits of just men made perfect, and to Jesus, the mediator of the New Covenant. And now Right Reverend and Right Honourable, as we met together in the name of the Lord Jesus Christ, the alone Head of the Church, so let us part in the same name.” He then dissolved the Assembly with the usual formalities.

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COMMISSION MEETING IN MAY.

On the 26th, the Commission took into consideration, an appeal by William Urquhart of Meldrum, Esq., who had presented Mr Thomas Simson, probationer, to be minister of *Cromarty*, from a sentence of the Synod of Ross,



affirming a judgment of the Presbytery of Chanonry, by which a call of certain heritors and elders of the parish of *Cromarty* to Mr. Patrick Henderson, minister of the gospel, was sustained; and the Presbytery thereafter proceeded to his actual settlement there. After hearing parties, and reasoning, it was agreed without a vote, to delay the consideration of the merits of the presentation and calls till November. After further reasoning the question was put, Whether to *proceed* to consider the conduct of the Presbytery in settling Mr. Henderson, or *delay* the whole affair? and carried *Proceed*. Then the question was put, *Reverse* the settlement, or *Not*? and carried *Reverse* by a majority of one vote. The Commission therefore reversed the settlement, declaring it void and null, but without prejudice to the merits of the cause.

The same day they affirmed, without a vote, the sentences of the Presbytery of Wigton and Synod of Galloway, appointing the moderation of a call to Mr. Samuel Brown, probationer, to be minister of *Kirkmabreck*, (who had been presented by the crown,) in opposition to Mr William Sloan, probationer, presented by John MacCulloch of Barholm, Esq.

Next day they agreed, likewise without a vote, to appoint a committee of their own number, to deal, in conjunction with the Presbytery of Biggar,\* with all concerned, in order to bring about a comfortable settlement of the parish of *Biggar*, and particularly with the people of that parish, in order to Mr. William Haig's peaceable settlement there; and to report to the Commission in November.

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#### COMMISSION MEETING IN NOVEMBER.

The Commission met Nov. 22.—The Committee that had been appointed to unite with the Presbytery of Biggar in visiting the parish of *Biggar*, gave in their report, bearing “that they had called upon the elders, who

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\* The Presbytery and Synod had found “that the parish was in the same circumstances as at the Assembly 1751. (See p. 217.) And, therefore, that they could not proceed to the settlement thereof.”

were all present, and declared that the grounds of their opposition to Mr. Haig's settlement were, 1mo., That he could not be heard by a great part of the congregation—that though he begun upon a high enough key, yet he was not able to hold out the whole length of the service. 2do, That he was so *unwieldy* and infirm, that they had no prospect of his being able to perform the duties of his office, by going as occasion might require to visit the parishioners, and particularly the sick." Then the meeting having gone to the church to confer with the people, and such of the heritors as were present, they all adhered to the objections made by the elders, who also declared they spoke not only their own opinion, but that of all the people in their respective bounds." Parties being heard, the Commission named a committee of their own number to join with the Presbytery, and to meet at Biggar on the second Thursday of March, (1753,) to take trial of the objections against Mr Haig, particularly with respect to his voice, and appoint Mr Haig to preach to the said meeting that day in the Church of Biggar, and if they find the above objections not sufficiently supported, that they deal farther with the people of the parish to bring them in to his settlement; and report their proceedings to the Commission in March next. [The case continued to come before the Church-courts till 1754, when an arrangement was made, by which Mr. John Johnston, Chaplain of Edinburgh Castle, who proved acceptable to the people, was settled in Biggar, and Mr Haig succeeded him in the chaplaincy.]

The Commission resolved, with consent of parties, to delay procedure in the question relating to the parish of *Cromarty*, till their meeting in March, in regard that a process of declarator concerning the right of patronage was in dependence before the Court of Session.

The Committee appointed in reference to the collection for the *Church at Breslaw* reported, that Messrs. Hog and Mansfield, though often called upon, had not hitherto laid before the committee a state of the money collected, and sums remitted by them. The committee was continued, and the instructions were renewed.

With regard to the collection for the *German Protestants in Pennsylvania*, (whose case had been laid before last Assembly by the Dutch Church,) the moderator re-

ported, that he had written a letter to the consistory and class of Amsterdam, which was read and engrossed. The following is an extract:—"It is with great pleasure the Church of Scotland correspond with foreign Protestant Churches, and take this public occasion of maintaining that communion with them, in order to advance the glory of our common Lord, and to promote and propagate the pure reformed religion. \* \* \* \* May Almighty God watch over, and bless your Church, prosper, and make it flourish! May it be, as it has been to us when threatened with Popery, a refuge to all who are, or shall be persecuted for their adherence to true religion! and may He for ever preserve to you the ordinances of the gospel in their purity and power!—These are the sentiments of the Church of Scotland, which I have the honour to signify to you.

I am,

Reverend and dear Brother,

Your most affectionate Brother,

And most Humble Servant,

(Signed) PATRICK CUMING.

To the Rev. Mr. Longueville, to be  
communicated to the Consistory and  
Class of Amsterdam.

THE END.

## APPENDIX.

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### I.—NOTICES OF THE LORDS HIGH COMMISSIONERS.\*

1. *The Earl of Hyndford.*—In 1739 and 1740, the King's Commissioner to the Assembly was John, third Earl of Hyndford, the representative of the now extinct noble family of Carmichael, which had in former times been noted for its attachment to the Church of Scotland. Mr. James Bannatyne, Moderator of the Assembly in 1739, in addressing his Grace at the opening of the Court, alluded to "the honour he had to represent a noble family who, in the worst of times, were kind patrons even to persecuted Presbyterians. These things," he said, "cannot but endear His Majesty's choice to us.—Some here, may it please your Grace, can with pleasure remember the time when one of your noble ancestors sat upon that throne.—He had the honour to be chosen the first Commissioner to the Assembly by the ever glorious King William."† The Earl of Hyndford attained high distinction as a Diplomatist. In 1741,

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\* The following is the account of the opening of the Assembly 1739, given in the newspapers of the day :—"The Assembly met at 10 o'clock, in the New Church [now called the High Church]. Soon after, the Right Honourable John, Earl of Hyndford, repaired thither with a most splendid retinue (the City-guard, headed by their proper officers, drawn up on both sides, drums beating the march,) in the following order :—

The Macers carrying their maces.

Gentlemen-Ushers, two and two.

The Heritable Usher.

The Purse-Bearer.

HIS GRACE THE HIGH COMMISSIONER.

His Grace's Pages.

The Nobility, and other persons of distinction.

His Grace's Footmen, two and two, in rich liveries.

He was received at the church door by the Right Honourable the Lord Provost, Magistrates, &c. His Grace being placed in His Majesty's seat (which was richly dressed with equipage brought from the Royal Wardrobe in the Abbey), and proper devoirs being paid him, a sermon was preached by Mr. James Ramsay of Kelso, the former Moderator, from Jer. xvi. 8," &c. The close of the Assembly is thus described :—"The Assembly rose about five afternoon, the members accompanying his Grace and retinue to his lodgings, where they bid him adieu." At that period, and for many years after, the Assembly had two diets every day, the one in the forenoon and the other in the afternoon.

† These Presbyterian reminiscences did not prevent his Lordship's brother, William, from entering the Episcopal Church of Ireland, where he successively became Bishop of Meath and Archbishop of Dublin. He died at Bath, the 15th Dec., 1765.



upon the King of Prussia's invading Silesia, he was sent as envoy-extraordinary and plenipotentiary to that Prince; and, the year after, accommodated the differences which had occasioned that war. Upon the conclusion of the treaty of Breslau, he was created a Knight of St Andrew, or the Thistle, and was invested, at Charlottenburgh, August 2, 1742, by the King of Prussia, by virtue of a commission from the King of Great Britain. As a testimony of the satisfaction of the contending powers, he received from the King of Prussia a royal grant dated at Berlin, Sept. 30, 1742, for adding to his paternal coat of arms the Eagle of Silesia, with this motto, *EX BENE MERITO*; which grant was ratified by a diploma from the Queen of Hungary and Bohemia, dated at Vienna, Nov. 29, 1742; both deeds conceived in terms much to his Lordship's honour. In 1744 he went as ambassador to the court of Russia, where he continued till the end of the year 1749, and was very instrumental in accelerating the peace concluded at Aix-la-Chapelle. On his return to Britain, he was appointed one of the Lords of the Privy Council, and of the Bedchamber; and in 1752 he was sent ambassador to the court of Vienna. He was one of the sixteen Peers for Scotland in four successive British Parliaments, and also Vice-Admiral of Scotland. He died at Carmichael House on the 19th July, 1767. His Lordship married, first Elizabeth, eldest daughter of Sir Cloudesly Shovel, widow of Lord Romney, who died without issue. He afterwards married Jane, daughter of Benjamin Vigor, of Fulham, Esq. who survived him, likewise without issue.—His Lordship was succeeded in honours and estate, by John Carmichael of Castlecraig, Esq. son of Mr William Carmichael of Skirling, Advocate, who was son of the first Earl of Hyndford.

2. *The Earl of Leven*.—From the year 1741 to 1753 (a period of thirteen successive years), His Majesty's Commissioner was Alexander, Earl of Leven, the head of a family whose history had been closely connected with the struggles and triumphs of Presbytery. It was probably this circumstance which emboldened the nobleman who now represented the Royal person, to give his opinion of the matters which came before the Assembly with more frequency and freedom than would now be relished, or perhaps tolerated. Proofs of this the reader will find in the present volume, at p. 184 and p. 261. Thus too, in the Assembly 1748, there had been the case of Campbell, presentee to the Abbey Church of Paisley, rejected on account of *suspensions of disloyalty*, unsupported by any tangible evidence. The Commissioner, in his closing speech, with an evident but not very fair allusion to this case, said:—"I persuade myself you will think it absolutely necessary to guard against licensing not only those who may be deficient in point of knowledge or reputation, but likewise such whose attachments or adherence to our happy constitution, in Church or State, is not particularly well-attested or known." In taking leave of the Assembly 1749, he rather dissuaded them from prosecuting the Augmentation-Scheme; and it was no doubt in reference to it that he said, in his opening address of 1750:—"In vain shall mistaken or designing men endeavour to mislead you into measures subversive of the peace and quiet of the Church, and which, instead of promising success and advantage, are evidently destructive of the very end in

view, and would infallibly issue in disappointment and regret.”—(Compare his closing harangue at p. 184.)

The Earl of Leven was a Senator of the College of Justice, and one of the Lords of Police for Scotland. He died on the 2d Sept. 1754, at his seat of Melvil in Fife, and was succeeded by his son David, who, at a subsequent period, filled the office of High Commissioner for many years.

## II.—NOTICES OF THE MODERATORS, WITH EXTRACTS FROM THEIR CONCLUDING ADDRESSES.

1739. *Mr. James Bannatyne*.—He was born in 1674, was ordained minister of Whittingham in 1707, and translated to Edinburgh in 1714. He became one of the ministers of the College Church, having Mr. George Logan for his colleague. In 1748, his daughter Catharine (described by Dr. Finlayson as “a woman of great good sense and spirit,”) was married to her cousin, Dr. Hugh Blair.—Mackenzie, in his *Life of Home*, speaks of an Edinburgh minister of the name of “Ballantyne,” as one of those clergymen of the moderate party, with whom Home and his companions, Carlyle, Robertson, &c., associated; but if this be the person intended, he was their senior by many years;—although, from the circumstance of his having employed Drysdale as his assistant, there can be little doubt that he inclined to that party.

The persons put on the *leet* for Moderator, along with him, were *Mr. John Willison*, Dundee, and *Mr. James Naismyth*, Dalmeny. In his closing address, after dwelling on our privileges as a National Church, and inculcating gratitude, he thus refers to the case of the Seceders, who had at this Assembly given in their Act of Declinature:—“It can’t be expected that in so great a body there should be a perfect harmony of sentiments, yet I can’t but notice that we have all agreed in a zealous concern for the support of our happy Establishment—the only difference has been about the ways and means of doing it. \* \* \* It could not but very sensibly affect us to behold so many who were once of us, standing at our bar as pannels—renouncing all communion with us, and offering insults to us that we can hardly find a parallel to, and yet borne with so much patience and forbearance.” He urged all this as a call to humiliation, watchfulness, and diligence. “When we behold others insisting so much upon their *Act* and *Testimony*, let us insist upon the *Testimony* of Jesus Christ, the glorious gospel of God our Saviour. Let us *please* our people to their edification, but never *fear* them for this will be a great snare. Let us ever remember, that we are to be *their* guides and overseers to heaven, and not they *ours*. Let us be zealous for the support of our happy Establishment;—*if we support it, it will support us*—if we suffer it to fall, we will be buried in its ruins.” He exhorted them “to resolve through grace to live better, to preach better than those who wait for our halting, that they may break our ministry, and destroy our usefulness in the world. The least wrong step that we take will be added to their *Testimony*, to raise prejudices and create jealousies.” Hence he argued the necessity of caution and circumspection.—*Mr. Bannatyne’s* text, at the

opening of the Assembly 1740, was 1 Tim. iv. 12. He died on the 10th April, 1756, in his 82d year, a week after Mr. Robert Kinloch of the High Church.

1740. *Mr. George Logan.*—He was born in 1678, and became one of the ministers of the College Church of Edinburgh. Mr. Logan was distinguished by his zeal for the Hanoverian succession; and when the rebels approached Edinburgh in 1745, he was a warm but unsuccessful advocate for putting the city in a posture of defence.\*—After the Rebellion was put down, he published “A Treatise on Government, showing that the right of the Kings of Scotland to the crown was not strictly and absolutely hereditary,”—which involved him in a long and acrimonious controversy with the Jacobite Antiquary, Thomas Ruddiman. Logan’s last rejoinder (published in 1749) contained a Vindication of Mr. Alexander Henderson “from the charge of having done injury to King Charles I., and of having repented of his conduct and management in public affairs.”

The only person put on the *leet* for Moderator along with him was *Mr Andrew Cuming*, Largs, but Mr. Logan was chosen by “a very great majority.” In his concluding address, he alluded to the “*hard law and grievance of patronage*,” and then to the Seceders (whom this Assembly had finally deposed), “who have for several years made a most unwarrantable Secession from this Church, happily established by law; and yet, *with the greatest inconsistency that ever was heard of, have, all the time of their public Secession, retained the civil profits of this Establishment—I mean their stipends, their manse, and glebes.*—Pretending to a degree of sanctity above all their brethren, as if they were the most excellent ones in all the earth—as if all should bow to their judgment,—no doubt they are the people, and wisdom shall die with them. I shall not point out their divisive and schismatical practices, nay immoralities, highly criminal in ministers, nor set forth the aggravations of them in their due light and proper colour, *lest I should be thought to deliver a satire upon them.*”—Pointing out to his brethren their privileges and consequent responsibility, he says, “You will therefore testify against infidelity that so much prevails, and against free-thinking, as it is now managed for the destruction of revealed religion, and the opening a wide door to libertinism and scepticism, to atheism and deism, and to the venting many dangerous and damnable errors. You will, I hope, do what is in your power to prevent the growth of popery, *to which we are too much encouraged by his Majesty’s Royal Bounty and donation.*”† Mr. Logan’s sermon, at the opening of the Assembly 1741, was published. He died on the 13th Oct., 1755, aged 77.—This Mr. Logan is not to be confounded with another Mr. George Logan (probably a connection), minister of Ormiston, an associate of Robertson and Carlyle in their younger days.—Mackenzie says (*Life of Home*, p. 12) that “he was peculiarly distinguished for learning and acuteness, and was generally allowed to be

\* See the “Information against Provost Stewart,” where the fact is also mentioned that, “out of their moderate stipends, the ministers of Edinburgh joined in subscribing for the pay of 100 men out of the 1000 proposed to be raised.”

† There is an amusing ambiguity in the last sentence, yet it is a faithful abstract of the original.

the first metaphysician of his time." He had undertaken, at the solicitation of some of the ablest of his co-temporaries, to refute the sceptical writings of David Hume; but was prematurely cut off on the 23d February, 1754.

1741. *Mr. James Ramsay*.—He was born about the year 1669, and was minister, first at Eyemouth, and then at Kelso. Frequent mention is made of him in the Memoirs of the excellent Thomas Boston, whose worth he seems early to have appreciated, and whom he, on various occasions, warmly befriended.—“When I entered on the study of theology,” says he, “Mr. James Ramsay having put the book in my hand, viz., *Pareus on Ursin’s Catechism*—the which I read over three or four times ere I went to the school of divinity.”—It was “through the interest of Mr. James Ramsay aforesaid, and other friends,” that, when minister of Simprin, he was chosen Clerk of the Synod of Merse and Teviotdale. His entering on the duties of the office he describes with that *naïveté* which imparts so great a charm to his whole narrative:—“When I first took the seat among them, and stood up for to read, being in great confusion, through my natural diffidence and timorousness, I blundered; but recovering myself, with much ado made it out. Upon which occasion, Mr. Ramsay did seasonably express his confidence of me notwithstanding. The oath *de fidei administratione* I declined; and they were pleased to accept of my promise to serve them faithfully, and keep their secrets!—which I strictly observed.” Boston and Ramsay, however, frequently differed on public questions—especially as to the oath of abjuration and the Marrow doctrine. Being the leading man in the Synod, Mr. Ramsay took an active part in conducting the process against Boston’s friend, Mr. Gabriel Wilson of Maxton, accused of venting certain heterodox sentiments in a sermon preached before the Synod, in October, 1721. Messrs Ebenezer and Ralph Erskine went to Kelso to be present at the trial; and it is to Mr. Ramsay that the latter is said to have addressed the *impromptu* couplet, when asked by him to give a specimen of his poetic powers:

“We be two angels who did ride and run  
To see the angel *Gabriel* fight and win.”

—lines that are more remarkable for their metre than their modesty, and the only point in which lies in the allusion to Mr. Wilson’s christian name.

The only person put on the *leet* for Moderator, along with Mr. Ramsay, was Mr. John Hepburn, one of the ministers of Edinburgh; but, though the former had filled the chair so lately as the year 1738, he was again elected. His concluding address is the shortest we find on record, being comprised in this one sentence:—“It is with pleasure I can observe that the affairs of this Assembly have, by the good hand of God upon us, been managed with great decency and remarkable unanimity.”—Mr. Ramsay died on the 3d July, 1749, being upwards of 80 years old.

1742. *Mr. Thomas Tullidelph*.—The others on the *leet* were Messrs. John Cleghorn, Wemyss, and Alexander Maclaggan of Little Dunkeld, the latter being for many years a most active member of Assem-



bly. Mr. Tullidelph was at this period Principal of St. Leonard's College, St. Andrews; and that Institution having been in 1747 united to the College of St. Salvador, he ultimately became Head of the United College, and was also minister of St. Leonard's parish. Dr. Cook, in his *Life of Hill*, speaks of him as a man eminent for talents and eloquence. Principal Hill was his assistant in St. Leonard's Church for some years previous to his death, which took place on the 14th Nov., 1777.—His closing address from the chair consisted chiefly of gratulations as to the manner in which the business of the Assembly had been conducted. "Though there was not always unanimity, yet it must give pleasure to all who wish well to religion, that brotherly love hath not been hurt in your deliberations, nor by your resolutions." He finally inculcated an attention to "serious godliness and solid religion, that are so lamentably in decay in our day." His text, at the opening of the Assembly 1743, was in 1 Cor. i. 10.

1743. *Mr. Robert Wallace.*—This gentleman attained considerable distinction as a political economist, by his "*Dissertation on the Numbers of Mankind*," which contains the germ of some of the principles afterwards developed by Malthus in his "*Essay on the Principle of Population*." The following short Memoir of him appeared soon after his death in 1771, and is understood to have been drawn up by his son, George Wallace, Esq., advocate, known among lawyers by his work on the "*Origin of Feudal Tenures*;"—

"Robert Wallace, the only child of his parents, was born, on the 7th of January, 1697, O. S., at the village and in the parish of Kincardine, in the stewartry of Menteith and county of Perth; of which his father, Matthew Wallace, (a descendant from the same ancient family of Wallace of Riccartoun in Ayrshire, that has been rendered illustrious, by the achievements, and the gallantry, of Sir William Wallace, the patriotic and renowned hero of Scotland,) was minister. He was taught Latin, and initiated in Greek, at Stirling, under Thomas Darling, master of the grammar-school of that borough. In 1711, he was sent to the University of Edinburgh; at which he passed a regular and complete course. The celerity of his apprehension, the liveliness of his imagination, the depth of his judgment, and the vigour as well as fineness of his genius, enabled him quickly to make a distinguished progress in every branch. His superior parts were soon remarked, and the high character which he acquired on that account, joined to a sociable and excellent temper, cheerful and instructive conversation, a warm and friendly heart, a nice honour, and morals uncommonly pure, made his acquaintance be sedulously courted by all his contemporaries. In 1717, a society, called, "*THE RANKENIAN CLUB*," from the master of the tavern at which it met, being instituted, at Edinburgh, by some young gentlemen of the first abilities, Dr Wallace was one of its original Fellows; and Dr Wishart, afterwards Principal of the College, the celebrated Mr Maclaurin, Professor of Mathematics, Sir Andrew Mitchel, Knight of the Bath, Dr Young, author of an admirable treatise on opium, and others were numbered among its members. Its object was mutual improvement by liberal conversation and rational inquiry; its influence, however, was not confined to the individuals of whom it consisted. It is well known, that the RANKENIANS were highly

instrumental in disseminating through Scotland, freedom of thought, boldness of disquisition, liberality of sentiment, accuracy of reasoning, correctness of taste, and attention to composition; and that the exalted rank which Scotsmen hold at present in the republic of letters, is greatly owing to the manner and the spirit begun by that society. Among others, the abstruse principles vented by Dr. Berkeley, Bishop of Cloyne, were accurately canvassed in it; and the society amused themselves by maintaining with that eminent and pious Prelate a literary correspondence, in which they pushed his singular tenets all the amazing length to which they have been carried in later publications. To their letters his Lordship transmitted polite and regular returns, endeavouring to avoid the consequences drawn from his doctrines. He was greatly pleased, too, with the extraordinary acuteness and peculiar ingenuity displayed in them, and he has been heard to say, that no persons understood his system better than this set of young gentlemen in North Britain. Hence he offered to adopt them into his famous design of erecting a college at the Bermudas for the benefit of the new world. But the club, thinking the project aerial, and having other agreeable prospects, declined to accept of his Lordship's invitation.\*

"Dr. Wallace, being ardently turned to contemplation, and study, had early resolved to enter into the Church; a profession which suited his speculative disposition, and which he thought would afford him leisure to indulge his natural inclination. Having been licensed to preach, in 1722, by the Presbytery of Dumblane, he was, in August, 1723, ordained minister of the parish of Moffat, in the Presbytery of Lochmaben, and stewartry of Annandale, on a presentation of James, Marquis of Annandale. In May 1729, he was elected Moderator of the provincial Synod of Dumfries; and he preached before them in October following. This sermon (in which are treated the reasonableness of bestowing an attentive consideration on divine revelation, and the irrationality of rejecting, without examination, all pretences to it,) he published at the desire of the Synod; and to it he owed his preferment in some degree. Mr Johnston of Twickenham, Principal Secretary of State in the reign of King William, whose father, Lord Warristoun, was one of those selected to suffer after the restoration of Charles II., happened (for he was not then acquainted with the author) to present the discourse to Queen Caroline; and her Majesty, who is generally known both to have had a taste for literature, and to have been a patroness of the learned, recommended Dr Wallace to the notice of Archibald, Duke of Argyle, then Earl of Islay. The Doctor, having in consequence been chosen a minister of Edinburgh, on occasion of a vacancy made by the death of his learned and able master, Mr. William Hamilton, Principal of the College, was appointed, in 1733, to exercise his office in the New Greyfriars' Church of that city.

"Mathematics, mixed as well as pure, was a pursuit in which he took particular delight; and he made a vast progress in that walk; of which it is a strong proof, that he can be counted among those few who have read, and penetrated all the depths of Mr. Maclaurin's extensive and profound treatises of Fluxions and of Organic Geometry.

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\* A list of the members of the Rankenian Club will be found in Lord Woodhouselee's *Life of Kames*, Appendix to Vol. I. No. VIII.

Hence his old and excellent professor, James Gregory, (a stem of that remarkable family from which Mr Gregory of Padua, and Dr. Gregory of Oxford were sprung, and which has produced genuine mathematicians in most of its branches), finding himself disabled, by indisposition, in 1720, from undergoing the fatigue of discharging his usual professional duties, cast his eye on Dr. Wallace, whom he asked to supply his place during the season. The favour was immediately granted; and the Doctor had already taught, with general applause, (when only in his twenty-third year) all the mathematical classes in that University. He co-operated also, about 1735, with that incomparable physician Dr. John Clerk, Mr. Maclaurin, Dr. Plummer, Professor of Chemistry, Dr. Munro, Professor of Anatomy, Sir John Clerk, one of the Barons of Exchequer, Sir John Pringle, Physician to the Queen, Mr Peter Leith, a priest of the Romish communion, and other celebrated Naturalists, in forming, at Edinburgh, under the auspices of his Learned and Noble Friend, the Earl of Morton, a philosophical society,\* for the culture and improvement of natural knowledge.

“ In 1736, John Porteous, captain of the guard of Edinburgh, who had been condemned by the Court of Justiciary to suffer for a capital crime, was reprieved by the guardian of the kingdom, (Queen Caroline, wife of Geo. II;) a mob, nevertheless, incensed at that unadvised and blameable interposition, assembled on the evening of the 6th of September, dragged the Captain out of prison, and hanged him in the Grass-market. In 1737, an Act of Parliament was passed, by which it was, among other things, enacted, That all who *concealed* or *succoured* any person declared fugitive on account of accession to this murder, should, on conviction, be liable to the pain of death; and the statute was ordered, under severe penalties, to be read by the minister in every Parish-Church of Scotland, on the first Sunday of every month for a whole year from the first of August. Dr. Wallace’s behaviour, in that critical situation, was peculiarly bold. Holding it to be no part of the duty of a clergyman, to trumpet from the pulpit sanguinary laws, and imagining the statute to be immoral in itself, he not only disobeyed the order, but, chusing to expose himself to the loss of his living, and to punishment, rather than do an action he reckoned mean and unworthy, he exerted himself, in an open as well as vigorous manner, in encouraging others to act with the same spirited and becoming firmness.

“ This, which he always held to be a wanton and impolitic exercise of legislative authority, disgusted him a little at administration; and his dissatisfaction was considerably inflamed, by apprehensions he began then to entertain, concerning the consequences of an avowed system, (of bribery and corruption,) which he feared would at last ruin the morals of the people, and undermine the principles of the constitution.† Hence he contributed all his assistance to support that

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\* Afterwards superseded by the Royal Society of Edinburgh (in 1783,) into which all the members were received as fellows.

† It would have been well, however, both for Wallace and Webster, if they had not so identified themselves with the faction of Frederick, Prince of Wales. They had their reward in being appointed his chaplains for Scotland in August 1739. Webster attacked Sir Robert Walpole in a fast-day sermon, which he printed, and in which he compared him to Haman.—

strenuous and heated opposition which was made to power during the last years of Sir Robert Walpole; and in his turn he experienced some consequences from the warmth he discovered at that juncture.

"In 1739, a vacancy happening in the New North Church of Edinburgh, by the death of Mr. Smith, Principal of the College, the common council of the city, resolving to oppose Dr. Wallace's translation from the New Greyfriars, obtained, on a bill of suspension presented to the Lord Ordinary on the bills, a *sist* or temporary stay of execution, of an Act of the Presbytery of Edinburgh, translating him to that collegiate charge. The *sist* was formally notified to the Doctor; but, *knowing the settlement of a minister to be a matter purely spiritual, in which the ecclesiastical courts have an exclusive jurisdiction*, he did not hesitate about the part it became him to take on the occasion; and, without minding the injunction issued by the temporal judge, he proceeded in discharging the duties annexed to the office, conferred upon him by the Presbytery, of minister of the New North Church.

"On the revolution which happened at St. James's in 1742, (on the resignation of Sir R. Walpole,) John, Marquis of Tweeddale, being appointed one of his Majesty's Principal Secretaries of State, the King's servants formed a plan, generous to the people, and peaceful in its consequences, about the disposal of the benefices of which the crown is patron in Scotland. The royal presentations it was resolved to grant in favour of those Clerics who should be agreeable to the owners of lands in the respective parishes; the heritors however were at the same time given to understand, that they must not treat the elders or other parishioners in a haughty manner, but use every honourable and conciliating means to render the settlements easy. During this administration, which lasted four years, Dr Wallace was generally known to be clerical minister, intrusted by government with the conduct of ecclesiastical affairs; and public records, as well as other authentic memorials, prove, that, during all the time he was employed in this department, government was not embarrassed, in a single instance, either in obtaining judgment from the spiritual courts in favour of his Majesty's presentees, or in effecting the execution of settlements ordered to be made by the Church.

"In 1741, a hint was given by Mr. Matthison, a minister of the High Church of Edinburgh,—for it is an act of justice due to the memory of that gentleman to mention, that he was the first who suggested the idea,—of establishing a public fund to insure a maintenance for the widows, and raise a stock for the children, of the clergy of Scotland. This proposal, which was introduced into the General Assembly in 1742, could not be carried into execution without inquiries and computations, equally painful and intricate, concerning the duration and chance of lives, the produce and value of annuities, the number and fertility of marriages, &c.: but Dr. Wallace, to whose feeling heart it was instantly recommended by its own humanity, and whom his fluxionary and algebraical as well as arithmetical knowledge rendered a superior and expert calculator, willing

At the meeting of the Assembly-Commission in November 1739, a motion was made by a ruling-elder, that the frequent crimes of bribery and corruption should stand part of the reasons for the fast then appointed, but, though the motion was seconded, it was dropt without dividing.



to undergo any labour that might promote the benevolent design, took a principal and indefatigable part, along with Dr. Webster, a minister of the Tolbooth Church of Edinburgh, both in digesting the plan proper to be adopted, and in making the calculations necessary to give satisfaction concerning its justice. In May 1743, he was chosen Moderator of that General Assembly which approved of this scheme, and in November following a commission was granted, by the Church to him, and to his friend Dr. George Wishart, a minister of the Tron Church of Edinburgh, to solicit, at London, an Act of Parliament, which was necessary for rendering the provisions effectual and sure. Lord Carteret was then minister; the nation and St. Stephens continued still divided by faction, and by rage; an easy and frequent intercourse was not yet opened and maintained between the different parts of the united kingdom; the rebellion had not happened; and the Church of Scotland had not attained either the lustre, or the importance, which the rare accomplishments and the distinguished powers of some of her members have since acquired to that learned and respectable body. Hence even a feeble opposition would, in all probability, have defeated the bill; but the dexterity with which those ecclesiastical commissioners, assisted by the advice of their sincere friend Sir Andrew Mitchel, under-secretary for Scotland, a prudent as well as able counsellor, avoided collision between violently agitated and contending parties, did them much honour, and surmounted every obstacle.

"In 1744, a few months after Dr. Wallace returned from London, his late Majesty appointed him one of his Chaplains, and bestowed upon him a joint grant, along with Mr Neil Campbell, Principal of the College of Glasgow, and Mr. William Guthart, a minister of the Tolbooth Church of Edinburgh, of the rents, profits, and emoluments, belonging to the deanry, sub-deanry, and other offices of the Chapel-royal in Scotland. In this office he was continued by his Majesty George III. on his accession to the throne, as well as in all the successive commissions which were to Dr. Jardine, Dr. Wishart, and Dr. Drysdale.

"In 1746, his ministerial powers ceasing on the resignation of his Noble Patron, the Marquis of Tweeddale, he was thereby enabled to bestow more time on reviewing some works he had composed for the press. To the Philosophical Society he had early read, *A dissertation on the numbers of mankind*, in which he maintained the superior populousness of antiquity, on a simple and inconvertible principle, "That most food must produce most people; and that those nations must of course be most populous, which, like the ancient, bestow greatest attention on agriculture, and those other arts by which provisions can alone be raised, and are rendered most plentiful." This dissertation, which he revised in 1747, was published at Edinburgh in 1753, together with an appendix, containing observations on a political discourse, published in 1752 by his friend Mr. Hume, *on the populousness of ancient nations*; and both treatises were immediately translated into French, under the eye of the Baron de Montesquieu, author of *The Spirit of Laws*.

"The Doctor, on looking around him, and considering the subject, which he could hardly avoid doing with attention in the latter part of his life, inclined to think, that academical and other titles are

*farcical distinctions*, rather hurtful than beneficial to society ; because he knew that they both are, and must often be, bestowed on the undeserving ; and that they tend to impose on mankind, by creating prepossessions in favour of persons entitled to little estimation, as well as to injure and to level real merit. This however was not the reason that led him to proceed hitherto without taking a degree, even in Arts. In Scotland, *in which pluralities are not permitted*,\* degrees, conferred by universities, give no legal or substantial privileges ; even precedence is not indisputably annexed to them ; and in the days in which he attended college, graduation was little used, or rather was in disrepute. But the practice had been lately revived ; and in 1756, the University of Edinburgh offered to invest him, and Mr. George Wishart, Mr. Kay, Mr. Macqueen, Mr. Dick, and Mr Macknight, with the scarlet of Doctors in Divinity. This mark of their esteem it would have been peevish to reject ; and at the Act he pronounced a short complimentary speech, in most elegant and truly classical Latin, which was exceedingly admired, and showed him to be a perfect master in that tongue.

“ The loss of Minorca (in 1756) threw the nation into uproar ; and the general confusion was somewhat increased by an over-charged picture, which the ingenious Dr. Brown drew in his *Estimate of the manners and principles of the times*. Dr. Wallace, whose ideas concerning the natural strength of his country were extremely lofty, and who did not imagine that a single blow, struck in a distant quarter, ought to consign the nation to despair, wrote at this time a volume, which was published in 1758, under the title of, *Characteristics of the present political state of Great Britain*, in which he explained the principles of commerce, the nature of money, the consequences of banks and paper-credit, the effects of funds and of public debts, and the proofs of national riches and national poverty ; and the opinion which he endeavoured there to inculcate, concerning the national genius, national force, and national capacity of Britain, was signally justified by the glorious successes obtained in 1759, 1760, 1761, and 1762, under the administrations of the Earl of Chatham and the Earl of Bute.

“ In 1761, he committed to the press another volume, of a serious nature, entitled, *Various prospects of Mankind, Nature, and Providence*, in which he considers the doctrines of Providence, of Immortality, of Liberty and of Necessity ; a work which is less known, but which his moral, pious, and thoughtful turn, led him to value more than any of his other performances.

“ The remainder of his life he passed in reading and in study, which he never abandoned ; in correcting his former publications, and in preparing others, of which he left a great number, for the press ; and it must be allowed strongly to mark the uncommon elegance of his genius, as well as singular serenity of his temper, that, at the age of seventy-three, he could unbend his mind from sublimer meditations and graver researches, even by reading Gallini,† and *by attempting an essay, on the principles and the art of Dancing*.

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\* This was written in 1771.

† The reference is to “ *A Treatise on the Art of Dancing*,” by Giovanni Andrea Gallini, Director of the Dances at the Royal Theatre in the

" Truth and science he always preferred to language and to composition ; yet he was a tolerable Greek, and an excellent Latin scholar. Among the ancients, Virgil was his poet, and Seneca his philosopher. His favourite modern was the Earl of Shaftesbury, a writer from whom he could not help sincerely regretting that he found himself obliged to differ in capital articles : and he was deeply impressed with all that devout and rapturous admiration of the beauty and order, wisdom and beneficence of Nature, which this nobleman paints with a glowing pencil, in his *Characteristics*. Hence he was particularly fond of roaming in the fields ; and his death was probably accelerated by that taste. In May 1771, being overtaken at a walk by snow, he caught a cold, which was soon followed by asthmatic complaints. He was bled ; but his illness did not abate. In a few weeks his legs swelled, and manifest indications appeared, that a general anasarca had invaded his frame, as well as strong symptoms that a lodgement of water had been formed in his breast. His disease increasing, medicines were given, exercise was prescribed, and other remedies were tried ; but all was ineffectual. His strength decayed, and he died, in full possession both of his spirit and of his faculties, as well as in perfect tranquillity, with little or rather no pain, and without being confined even a day to bed, about six afternoon of the 29th of July 1771."

Such is the sketch of Dr. Wallace's life and character by his son, which we have presented entire, with a few verbal alterations and some additions. The following particulars are derived from other sources. It seems highly probable that the reading of Wallace's Dissertation before the Philosophical Society, incited Mr David Hume, one of its members, to write his well-known Discourse on the Populousness of Ancient Nations, which was published among his " Essays " in 1752. In this discourse that celebrated writer adopted the other side of the question, and argued, with great learning and acuteness, against the superior populousness of ancient states.—Mr Wallace did not

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Haymarket. 1762.—" Of this groupe of men [clergymen of the moderate party], with whom Mr. John Home was associated, was Dr. Wallace, known as an author by his Treatise on the Numbers of Mankind, who cultivated the science of political economy before it had begun to be studied here under those great masters, David Hume, and his friend, Adam Smith. Dr. Wallace, with the most perfect correctness of clerical character, was a man of the world in that better sense of the term, which implies a knowledge of whatever human science or learning has done to enlighten mankind ; and he even extended his reading to its innocent though lighter accomplishments. He wrote notes, as his son informs us, on Gallini's Art of Dancing. I sat with my father's family in the Little Church, (called Haddo's Hold, from its having been once used as a prison for Lord Haddo, in the days of civil contention in Scotland,) where Dr. Wallace was minister ; and I perfectly remember his introducing in a sermon, comparing modern morals, manners, and attainments, with those of the ancients, a high encomium on " Gray's Elegy on a Country Churchyard," which had been published a short while before, which he said he would venture to compare with the most celebrated specimens of ancient classic poetry."—*Mackenzie's Life of Home*, p. 16. He elsewhere informs us that in the affair of " Douglas," Dr. Wallace wrote an anonymous letter to Home's friend, Carlyle, full of the soundest advice, and assuring him of his support.

hesitate to enter the lists with his able antagonist, with whom, however, he still continued to live in the strictest habits of friendship.—In 1753 he sent his “Essay on the Numbers of Mankind” to the press, together with an Appendix, equal in length to the body of the work, containing answers to Mr Hume’s principal arguments.—In this appendix he mentions, in language of respectful gratitude, the assistance he had received while treating of subjects connected with Roman law, from a friend versed in that department.—This friend was his second son George, then an advocate at the Scottish bar. In 1809, a second edition was published, with the author’s last corrections, and some emendations by his son. Mr. Hume, in a very long note, in an early edition of his Essays, paid a very high compliment to Dr. Wallace, and admitted that he had derived much information from his work.

Dr. Wallace was in the practice of corresponding with many of the learned men of his day, and his house was frequented by the principal literary characters of the country.—It may be added, that in the celebrated controversy concerning the character of Mary, Queen of Scots, he dissented from the opinions of Principal Robertson, and warmly espoused those of Dr. Stuart and Mr. Tytler, the vindicators of the unfortunate Queen. He died at his country lodgings, at Broughton Loan, (a spot now occupied by the east end of York Place and Albany Row), being then in his 75th year, and was buried in the Greyfriars’ Churchyard.

Dr. Wallace had married Helen, daughter of the Rev. George Turnbull of Tynningham; and he left, by her, three children; Matthew, who was preceptor to Alexander, Duke of Gordon, and afterwards vicar of Tenterden in Kent, and L.L.D.; George, an advocate, already mentioned; and a daughter named Elizabeth. Mrs. Wallace survived him till the 9th Feb., 1776; his son Matthew died on the 14th November, 1771, a few months after his father. All his children were unmarried.

A striking likeness of Dr. Wallace, painted in 1764, by Millar, was presented by his representatives to the trustees for the Widows’ Fund, to be placed in their hall.

Besides the works mentioned in the above Memoir by his son, Dr. Wallace published, in 1746, the anniversary sermon he had that year preached before the Society for Propagating Christian Knowledge, with the title, “Ignorance and Superstition a source of violence and cruelty, and in particular the cause of the present Rebellion,” the text being Ps. lxxiv. 20. Lord Dun having, in his “Friendly and Familiar Advices,” revived the doctrine of passive obedience and non-resistance, Dr. Wallace (in 1754) felt it his duty to publish a reply, accompanied with some observations on the necessity and advantages of the Revolution of 1688. As to his style of preaching, Dr. Erskine’s estimate of it will be found in a note subjoined to our account of Dr. George Wishart, Moderator in 1748. He states, in confirmation of the opinion there given, that he heard “Dr. Wallace, on week-day evenings, preach several sermons on the permission of evil, in which, depth of thought, and plainness of language, were equally conspicuous.”

The only person put on the *leet* for Moderator, along with Dr. Wallace, was Mr. John M’Dermitt of Ayr. In his address at the



close (which the *Mercury* calls "a very fine speech,") the Moderator remarked:—"It is an extreme pleasure to me to reflect on the moderation, decency, charity, and meekness, that has been observed amongst us, as much perhaps as in many former Assemblies." Referring to the *Widows' Fund Scheme*, for the legalising of which it had been resolved to apply to Parliament, he said, "May that God, in whose hands are the hearts of the kings and princes of this earth—that God, who standeth in the congregation of the mighty, and judgeth among the gods—grant it good success, and dispose the Legislature to give it the sanction of law. For this shall children and widows yet unborn praise them, and mention their name with honour. And now it becomes us, when we are to separate into our different places of residence, to manage with that prudence and regard to our countrymen of all denominations, that we may procure their necessary assistance for promoting so good a design." His text, at opening the Assembly 1744, was Ps. cxlv. 4.

1744. *Mr. John Adam or Adams.\**—At the time of his election to the chair he was minister of Dalrymple in Ayrshire, but before the meeting of the Assembly 1745, he had been translated to Falkirk, where there had been a long vacancy, occasioned by competing calls (both ultimately set aside) to Messrs. Leechman of Beith, afterwards of Glasgow, and Speirs of Linlithgow, afterwards of Burntisland.—The Presbytery of Ayr refused to loose him from Dalrymple, but the Commission reversed their judgment. Mr. Adams was one of the leading men in the Church on the popular side. He took an active part in opposing the settlement of Mr. Watson at Torphichen, a detailed account of which will be found in the present volume, p. 198—212 (see especially the note at p. 200). And I am inclined to think, that he had a principle share in drawing up the "Manifesto of the Popular Party," in the case of Inverkeithing (see p. 230, 242). Mr. Adams died at Falkirk, on the 20th March, 1757.

The person put along with him on the leet for Moderator was *Mr. James Naismyth, Dalmeny*, who had also been on the leet in 1739. In his closing address, Mr. Adam says:—"I cannot but observe it to the honour of this Assembly, that so great a body have almost in every question come to a sentence without division, even when there had appeared considerable difference of opinions in the reasoning. \* \* \* In that case of more than ordinary delicacy, the accusation of a Professor of Divinity [Leechman] for heresy, in a sermon published by him, have we not seen the beauty of christian charity, in condescension on the one hand to remove offence, and readiness on the other to embrace satisfaction. We have had the most agreeable evidence too of impartial regards to the merit of questions debated before us, in the honest declarations of many, that after hearing a case fairly stated, they came to judge of it in a quite different manner from what they had done upon some imperfect representations before the meeting." He then begs pardon for the *escapes* [oversights or mistakes] he may have fallen into—"escapes I may well call them, for indeed I can charge myself with no voluntary

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\* There is great discrepancy in the orthography of this name, even in his own signatures as Moderator.

neglect of the regard I owed to any one member. The honour conferred was neither my choice nor inclination. But it seems the duty of the chair is not quite over. I call it the duty of the chair, to save me the blush in offering advices to my Very Reverend Fathers and Brethren, of whom it becomes me humbly to learn." He then alludes to the great care requisite in licensing probationers, that matter having been before the Assembly :—" Whatever embarrassments we justly complain of (in consequence of patronage), let us always remember we have the opening of the first door to all intrants into the holy ministry. O! let us make such conscience of opening it, that none may ever be licensed by us to dispense the bread of life, but such as, on the best grounds can be had, we have reason to judge have themselves tasted the good word of life, and felt the powers of the world to come." He then addresses "a word to the Honourable Elders," and adverts to the Royal Bounty, the Widows' Fund, &c. His text, at the opening of the Assembly 1745, was John, xii. 26.

1745. *Mr. William Wishart*,\* Principal of the University of Edinburgh. He was one of the sons of the *first* Principal Wishart, (of whom a notice will be found below†), and brother of Dr. George Wishart, of the Tron Church, Edinburgh, who was Moderator in the year 1748. He was born towards the end of the seventeenth century.

"He received his education at the public schools, and afterwards at the University of Edinburgh. Being early destined for the church, he was, when a very young man, licensed to preach the gospel, by the Presbytery of Edinburgh, about the year 1716. The Magistrates of Edinburgh, at that time, being convinced that the places for public worship were inadequate to accommodate the population of the city, fitted up a hall, belonging to the corporation of skinners, and opened it as a chapel. Here he preached for three years statedly. In 1724, he accepted of an invitation to become one of the ministers of Glasgow.‡

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\* In the Assembly-Records the name is commonly spelt *Wisheart*, having no doubt been originally *Wise-heart*. Hence, in the narrative of Montrose's campaigns, drawn up by his chaplain, George Wishart, the author's initials on the title-page are A. S., being his latinised name, *Agricola Sophocardius*.

† "He was first minister at Leith, having been ordained 'in times of the liberty;' he was then transported to Edinburgh [Tron Church] upon Mr. Crichton's death. He had a difficult part to act at the time of the union [as Moderator of the Assembly]. In his last years, he was very firm in the matter of the doctrine of the Trinity, and zealous in his opposition to Mr. Simson's innovations, *notwithstanding the weight of his two sons*. His father was minister in Linlithgow [at Kinneil, now united to Borrostownness, in the county of Linlithgow], and was persecuted for his principles.—His eldest son was in the army, and acquired the estate of Cliftonhall, Sir George Wishart. Another was Rear-Admiral in England, and left £20,000 to the Principal, dying childless. The Principal was a kind, honest, good man—an affectionate, serious preacher, and pious."—*Wodrow's MSS. Analecta*. He succeeded Carstairs as Principal, and died in 1731.

‡ The following is from *Wodrow's MSS. Analecta*, in the Advocates' Library (vol. 5, p. 39), under date of Sept. 17th, 1724.—"Mr. William Wishart ordained in Glasgow. He is settled, as is reported, over the inclinations of the people, whose consent has not been asked as usual. Town-councillors and Magistrates assume the real patronage in towns, as patrons

He first officiated in what was called the Wynd Church, and was afterwards admitted minister of the Tron Church. Being strongly solicited to accept of a call from a dissenting congregation in London, he complied, and was first minister of the Old Jewry, and then at Founders' Hall. When he left London, and repaired to Scotland, he brought along with him the most ample recommendations from Dr. Isaac Watts, Mr. Josiah Bayes, Dr. Harris, Mr. Moses Lowman, and Mr. Calamy.\* His father, who had been Principal of Edinburgh College for fifteen or sixteen years, died in 1731. Dr. William Hamilton, who was Professor of Divinity, succeeded him, but enjoyed the dignity for only one year. He was succeeded by Mr. James Smith, one of the ministers of the city, who died in 1736, when Mr. William Wishart, *Secundus*, was chosen in his room.

"The election took place upon the 10th November 1736; and yet it is singular that he was not installed in his office till the 2d of Nov. of the subsequent year.† No reason whatever is assigned for this delay. Nay, he does not even appear to have accepted of the offer made to him till November 1737. The reason of his not becoming one of the ministers of Edinburgh at the same time that he was elected Principal, was an accusation of heresy: and the Presbytery of Edinburgh would not sustain the call. The accusations were very far from being substantiated, and, even though they had been proved, were of a very trifling nature. A very candid and excellent judge, the late Dr. Erskine, observes, 'that the Doctor was unjustly accused of heresy, for maintaining that true religion is influenced by higher motives than self-love.‡' The prosecution, however, was carried on with great virulence through the inferior courts: but the General Assembly vindicated Dr. Wishart. There can be little doubt of his having had the promise of the first vacancy; but an opening did not occur till January 1739, when 'the Presbytery agreed to Principal Wishart's settlement in the New Greyfriars' Church.'”

The doctrinal errors with which Principal Wishart was charged were alleged to be contained in two printed sermons preached by him when a minister in London.§ The Presbytery found him guilty, but the Synod acquitted him, against which judgment an appeal was taken to the Assembly 1738, who disposed of the entire case in the following manner:—"Mr Wishart's declaration as to the first article of the charge read, owning and adhering to particular propositions of the *Confession of Faith*, to which the passages of the Sermons referred to in that first article, are alleged to be contrary, *viz. concerning the power and office of the magistrate in religious matters*; and then the Assembly agreed, *nemine contradicente*, to acquit him from that part of the

in the country, and the people have but very little share now in settlements. However, the young man is much to be commended in that, after so great a legacy left by his uncle, Admiral Wishart (£16,000 or £20,000), he continues his first design in serving God in the ministry of Christ, and certainly ought to be beloved for so doing."

\* Bower's History of the University of Edinburgh, vol. ii. p. 306.

† Counc. Regist. of those dates.

‡ Erskine's Sermons, vol. 1, p. 270.

§ Bower, loc. cit., p. 307.

§ "Universal Love, the Design of Christianity," (the text, 1 Tim. i. 5.) London 1731, 8vo,

charge. Next day he made a verbal declaration, which he offered to give in writing, touching the several articles of the error alleged against him, and asserting his belief of Truths in the *Confession of Faith*, which the Presbytery of *Edinburgh* had charged him with having contradicted in his sermons: Whereupon a committee was named to consider the said declaration, hear parties, and prepare an overture for terminating this affair and report.—Heard the report of the committee appointed to consider Principal *Wishart's* affair; also his Declaration subscribed and given in to the Assembly this day, in which he states the several articles charged against him by the Presbytery, and solemnly disclaims all errors whatsoever, whether charged upon him in the said articles, or not, that are contrary to the *Confession of Faith*, or any article of it; and after hearing parties upon the second Article, viz. *That he licentiously extends the liberty of Christian Subjects, by leaving all men to act impune, &c.*, the Assembly did acquit the Principal from the said article. As to the third article, viz. *That he is for removing Confessions, and freeing persons from subscriptions thereto, &c.*, the Appellants declared themselves satisfied with the Principal's declaration concerning that article. The Assembly went next upon the fourth article, viz. *That he is greatly concerned for a more free education of children by parents and other instructors, than is consistent with the directories thereof, approved by this and other Protestant Churches, &c.*, and the said article, with the passages in the Principal's sermon therein referred to, being considered, they acquitted him from the charge in that article. The fifth article, viz. *That he profanely diminishes the due weight and influence of arguments, taken from the awe of future rewards and punishments, &c.*, being read, with the passages in the sermon referred to, the Assembly did without a question, acquit the Principal from the charge of error therein. The appellants were next heard upon the sixth article, viz. *That he exceeds in his charity both to heathens, to whom the gospel offer has been made, and who reject the same, and to such as were born, baptised, and educated in the Church, who afterwards become deists, and reject the words of Jesus and his institutions:* and, after reasoning, the Assembly did also acquit the Principal from the charge in that article. The last article, viz. *That he seems to oppose the orthodox doctrine concerning the sinful and corrupt state of all men from their birth, &c.*, being read, the appellants declared, that they passed from their appeal as to that article, in respect of the answers made by Mr. Wishart; and therefore, the Assembly assolized the Principal from the process against him, and declare there is no ground to hinder the concurring with his call to be a minister of *Edinburgh*, on account of any errors in doctrine charged against him."

"The person who was inducted into *Edinburgh* in 1737, when, according to the usual practice of the patrons, it ought to have been Dr. Wishart, was the celebrated Dr. Alexander Webster, who, without being presented first to a single charge, according to established practice, was at once translated from Culross to the collegiate charge of the Tolbooth Church. Though this was considered in those days as a great innovation, yet it can be satisfactorily explained. By this arrangement, he became the immediate successor of his father, Mr. James Webster, who for thirty years had been pastor of that church. He had long been the idol of his hearers; and whatever opinion he



delivered upon any subject was oracular, and instantly acquiesced in by them. They had been so much accustomed to a particular style of preaching, to the selection of certain doctrines, and those, too, treated after a certain fashion, that to have presented Dr. Wishart to them, who confined himself much more to moral illustration, would have produced a rebellion, and rendered both parties very uncomfortable. The patrons, therefore, to pacify the congregation, consulted their prejudices, presented the son of their late minister, who possessed very popular talents, and preached the doctrines of Calvinism, though he was not a Supralapsarian as his father was.

“No sooner had Dr. Wishart entered upon his office as Principal, than he immediately commenced an inquiry into the state of the College. In consequence of the shortness of the time for which his two predecessors had held the office, together with the bad state of their health, different departments of the business of the University had run into disorder; and this was particularly the case with the library. He got a new set of regulations drawn up, in order to correct the abuses which had crept in.

“From the foundation of the College, the duty of the Principal consisted in having the general charge of the whole society,—in taking an account of the proficiency of the students of the languages and philosophy,—presiding at all University meetings, public examinations, trials for degrees, and conferring all degrees. Besides, it was the custom for him, both as Principal and *primarius* Professor of Divinity, occasionally to deliver public orations in the common hall upon any literary, philosophical, or theological subject which he deemed proper. These were attended by the Professors in their gowns, and the great body of the students. This practice had never been altogether abandoned; but Dr. Wishart revived it, by assembling the whole University much more frequently than had been done for a good many years. Though it was completely within his province, yet none of his predecessors had attempted to take a minute inspection of the progress either of the theological or medical students.—The exercise of this function was considered to be unnecessary, or at least invidious, considering the age and standing of these students; and, perhaps, to render such a duty of any real use to those for whom it was intended, was totally impracticable. He was most laborious in taking frequent opportunities of visiting the junior classes, and of being present when they were examined by the different Professors.\* An excellent classical scholar himself, he took great pleasure in observing the progress of his young friends; he encouraged and stimulated them to greater exertion; and, by every motive which he could devise, excited them to the study of those admirable models which the

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\* In reference to the public discourses delivered by the students before Dr. (afterwards Sir John) Pringle, in the Moral Philosophy Class, Dr. Erskine says:—“That great encourager of the study of the classics, and of moral and political science, Dr. Wm. Wishart, Principal of the College, often honoured these discourses with his presence, listened to them with attention, criticised them with candour; and when he observed indications of good dispositions, and discerned the blossoms of genius, on these occasions, and afterwards, as he had opportunity, testified his esteem and regard.”—*Appendix to Funeral Sermon on Dr. Robertson.*

ancients have transmitted to us. But the Doctor's enlarged views were not alone confined to the cultivation of the learned languages. He was intimately acquainted with the ancient as well as modern moralists; and the natural bent of his studies, as well as his genius, led him to cherish in the breasts of such young men, as he perceived to be possessed both of application and talents, an increasing desire to add to their stock of knowledge. When any discourses or orations were to be delivered, he regularly honoured the meeting with his presence, listened to the juvenile essays with the most marked attention and patience, and criticised them with the most unaffected candour. Such young men as were distinguished for their good dispositions, and gave tokens of genius, became the peculiar objects of his regard. This paternal care was not only extended to them during the term of their attendance at college, but was also testified upon every future occasion, whenever he had an opportunity of rendering them any service. By the prudence and propriety of his conduct, as the head of the University, he gained the esteem and affection of all.

"Dr. Wishart was not only intimately acquainted with the classics, but his knowledge of the writings of those modern authors who are distinguished for the purity of their Latin style, was very extensive. Among these, the celebrated dialogue of the amiable but unfortunate Florence Wilson, or *Volusenus, De Animi Tranquillitate*, was much admired by him, as it has been by every lover of the Socratic school, and of elegant Latinity, who has perused it. The Doctor, when residing in London, had formed an intimacy with most of the literary characters in the metropolis. Among others, he seems to have been in habits of the most unreserved friendship with Dr. John Ward, one of the professors of Gresham College, and author of a treatise on oratory. When the Principal had determined to reprint *Volusenus*, Dr. Ward prefixed a letter to the edition, in which he modestly, but with great justice, describes Dr. Wishart's character and zeal for the improvement of the students under his care. In 1743, he also published Ernesti's Preface to his edition of Cicero.

"Dr. Wishart's zeal to promote the cause of literature was not confined within the walls of his College. He was ever ready to join in the most hearty co-operation with those who cultivated letters. Classical learning was then taught in the schools and universities with considerable success; but little attention had been paid by the Scottish *literati* to the cultivation of a good English style. From the time of the accession of James to the throne of England, Scottish authors had avowedly proposed to imitate their more southern neighbours in their language; but many causes concurred to prevent this from taking full effect for more than a century. The nation, during the whole of that period, was convulsed by internal commotions, and the public mind so distracted, that little leisure was afforded for such kind of studies. After the union, however, and when the minds of men had time to recover from the agitation of the rebellion of 1715, the examples which had been given in England began to exercise their attention, and become the objects of their imitation. Associations of literary men began to be formed for this express purpose, whose mutual intercourse stimulated each other. One of the earliest institutions of this kind was "the Rankenian Club," so called from the name of the tavern-keeper in whose house they assembled. The

gentlemen who composed it\* spent their hours of meeting in literary conversation, making critical remarks on any new works of merit that were published; or on the style, sentiment, or manner, of authors of established reputation. One of their number was appointed to deliver an essay upon some prescribed subject at each meeting; concerning the merits of which, every member was requested to give his opinion. Dr. Wishart was a very active member of this society.

"The Principal was no less eminent as a preacher than as an elegant scholar. The popular preachers in Scotland at the time that he began his ministry, chiefly discussed in public some parts of the system, taking a doctrine, upon the explanation and corroboration of which they entered with all the formality of a theological Professor.

"Dr. Wishart was among the first, if not the very first, in Scotland, who pursued a very different course as a minister of the gospel. Possessed of a good taste in composition, an accurate judgment, an excellent fund of natural sense, and thoroughly master of his subject as a divine, he determined to trace out a path opposite to that of most of his brethren. Whilst he avoided the vulgarities and technical phraseology which disfigured the sermons of the generality, he determined to combine as much plainness, elegance, and useful illustration, in his discourses, as he possibly could; and all these he attained in a high degree. He was at the same time distinguished, says the late excellent Dr. Erskine, for "depth of thought, originality of genius, and the art of gaining attention to the most common and necessary subjects, by new reflections, illustrations, and arrangements."†

The Doctor adds in a note:—"Dr. William Wishart, to whose abilities and worth less justice has been done than to those of his brother, preached, in 1746, a course of sermons in his own church, on the new birth; and I well remember in how beautiful and interesting a manner he illustrated the change made on self-love, the social principle, and other springs of action in the human heart." Besides the sermons already mentioned, Principal Wishart published his sermon at the opening of the Assembly 1746, under the title of "Public Virtue recommended." In 1739, he prefixed a recommendatory preface to a new edition of "Scougal's Life of God in the soul of Man;" and in 1742, republished "Select Sermons by Whicheot." Watt, in his *Bibliotheca Britannica*, likewise ascribes to him "Sermons, 1753. 12mo." and "An Essay on the indispensable necessity of a holy and a good life to the happiness of Heaven; shewing that this necessity, according to the plain tenor of the gospel, is without any reserve or exception. 1753. 12mo." The book entitled "Theologia" was not by him, but by his father. In church-politics, Principal Wishart was a leading man on the popular side, of which proofs will be seen in the present volume, at pp. 209, 230, 243.

When he was elected Moderator in 1745, there were put on the list along with him, Messrs. James Bannatyne, Edinburgh (who had the chair in 1739), and Mr. Hugh Maxwell, Strathmartine. "The Assembly did with great unanimity make choice of the said Principal Wishart." In his concluding speech he said:—"You have done justice in several cases that have been discussed by you, for the regu-

\* See the preceding memoir of Dr. Wallace, p. 301.

† Bower, loc. cit. p. 308—316.

lar and happy planting of vacant congregations, and for securing the piety of the lives of ministers, and at the same time defeating and frustrating the hidden arts of calumny and defamation. You have given some proper directions, and earnest recommendations to inferior judicatures, and have gone as far as you could to extend the just fences which the good rules of this Church had made about the character of its ministers, to those who have at best an equal title to them [see p. 67]—in all which you have acted, if not with a perfect unanimity, yet with an agreeable harmony, and without uncharitable and unchristian divisions. \* \* \* I have observed, Very Reverend and Honourable, that some of my Reverend Fathers, who have worthily filled this chair, have dismissed their brethren with weighty and serious exhortations, and their best fatherly advices—a province more becoming them than me! And therefore, instead of presuming to offer you anything of that sort, in my own words, give me leave to put you in mind of some solemn and awful words of our Lord and Master Jesus Christ—"Ye are the light of the world, &c." His text, at the Assembly 1746, was Ps. cxxii. 6th, to the end.—In 1751, an attempt was made to put Principal Wishart again in the chair, by the party opposed to the Augmentation-Scheme; but, as will be seen at p. 190, it failed of success.

Principal Wishart died on the 12th May, 1753, and was succeeded by Professor Gowdie. His widow married Dr. John Scot of Stewartfield, 4th Sept., 1754.

1746. *Mr. John Lumisden*, Professor of Divinity, King's College, Aberdeen.—The candidates for the chair along with him were, Messrs John Guthrie, Ratho; John Hepburn,\* Edinburgh; and George Lindsay, North Leith. His address at the close, which was rather brief, contained, as might be expected, allusions to the lately-suppressed Rebellion:—"First we must all be sensible of the goodness of our God, by whose kind providence we have been called together and allowed to meet at this juncture. When we turn our thoughts toward the few months past since our last Assembly, we see nothing but commotions and confusions, violence and oppression, filling almost the whole period. Yet our gracious God, who has hitherto preserved this Church from being consumed, has again provided for us a peaceable and quiet retreat, and a secure time and place of meeting. This spot of earth, though not cheered by the warmest sun, is yet blessed with the brightest dispensation of religion, &c." In addressing the Commissioner, he said:—" 'Tis our duty to acknowledge with great thankfulness the peculiar obligations you have laid us under, by your patient attendance on the several diets of this Assembly, and by your great indulgence to us, and bearing with us, in the *tedious course of our business, and length of our debates*, &c." His text, in opening the Assembly of next year, was Rom. i. 16.

Professor Lumisden (who was one of the King's Chaplains,) died the 2d July, 1770, at an advanced age.—He was succeeded by Dr. Alex. Gerard, who had been previously Divinity Professor in Marischal College, and who had for his successor there, Dr. George Campbell.

\* He was also on the leet in 1741. He was King's Almoner for Scotland, and died at Mauldslee, near Hamilton, on the 29th April, 1749, in the 32d year of his ministry.



1747. *Mr. Robert Kinloch.*—He was born in 1688, was ordained one of the ministers of Dundee in 1713, and translated to Edinburgh in 1728, becoming one of the ministers of the High Church. His only publication was his sermon before the Society for Propagating Christian Knowledge, preached in 1731 (being the *second* anniversary sermon delivered), and entitled, “The Truth and Excellency of the Gospel Revelation.”

The only person put on the leet along with him was Mr. Andrew Dickson of Aberlady.—In his concluding address, referring to the settlement of parishes, he says:—“In the management of this important business, as well as in our other affairs, it gives a sensible pleasure that in several instances there hath been an entire unanimity, and in such cases where there appeared different sentiments, yet, through the hand of God upon us, the peaceable christian spirit hath been preserved;—and, may I hope, it will be your great care to maintain and promote this happy temper in the several corners of the Church where you are immediately concerned. Oh! my brethren, mutual love and affection, a firm union and harmony amongst ourselves is our beauty and strength, and would give the greatest joy to our friends, as well as the most mortifying disappointment to our enemies.” He then cautions them “against that cruel persecuting Popish spirit which we so justly detest and abhor. But I must check myself, and rather than speak of any thing more, ask pardon for having presumed to speak so much, considering to whom I address myself. Allow me only to add, that as I am conscious to myself how unequal I have been for the trust you were pleased to repose in me, so I take this occasion to express the *grateful resentments* I have of the civilities and indulgencies you have been pleased to show me. And if I have failed in overlooking any of the members of this house, who well deserve regard and respect to be paid them, I humbly ask their forgiveness.” His text next year, was Rev. iii. 19.

Mr. Kinloch being laid aside from duty by indisposition, gave in his resignation to the Presbytery not long before his death, which happened on the 3d April, 1756, seven days before that of Mr. Banatyne of the College Church, Moderator in 1739.

1748. *Mr. George Wishart.*—He was born in 1702,—was the son of the *first* Principal Wishart, and brother of the *second*, who had been Moderator in 1745. He was one of the ministers of the Tron Church, Edinburgh. In 1746, he was elected Principal Clerk of the Church (see the present vol. p. 86). In 1756, he received from the University of Edinburgh the degree of D.D.; and in 1765, succeeded Mr. William Guthart, of the Tolbooth Church, as one of the Deans of the Chapel Royal. He published various occasional sermons, *e. g.*, “The case of offences against Christianity considered,” being the Anniversary Sermon before the Society for Propagating Christian Knowledge in 1742; “Times of Public Distress, Times of Trial,” preached during the Rebellion in 1745. “The distinguishing characters of True Christianity; and the great causes of all Corruptions of it:” being the sermon he preached at the opening of the Assembly 1749, from 1 Tim. vi. 3. Dr. George Wishart survived his brother the Principal for more than thirty years, and died on the 12th June, 1785, aged 83.

The following is the character given of him by his colleague, *Dr. Drysdale*, in the funeral sermon he preached on the occasion of his death: "It pleased Almighty God, for the benefit of the world around him, to bestow upon him a considerable portion of that time to which He has limited the life of man upon earth: And during the whole course of his time, the good man is universally known to have maintained a dignified consistency of character and conduct, the foundation of that peace and serenity of mind which attended him to his last moments. In the public station which he occupied, he was an object of attention to successive generations, who all concurred in ascribing to him the praise of true goodness, a character to which his whole life justly entitled him,—a character honourable in the highest degree! by which he will be long affectionately remembered. His piety towards God was genuine and sincere, without ostentation, or mixture of art to catch the admiration of the multitude; and the truth of it uniformly demonstrated by affectionate regard to the children of God, and good will to all men; which are the true and only undoubted proofs of its reality. With a generous heart, and liberal hand, he, as far as he had power, relieved the poor, and comforted the distressed. Through his whole life, he was the friend of the helpless, the encourager and faithful counsellor of indigent merit, of which his true delight was to promote the success: And it may be truly said of him, that he never *wearied of well-doing*. Those good qualities which he exemplified in his conduct, he warmly and powerfully recommended in his instructions as a minister of religion. In the exercise of that office, he shone forth with peculiar lustre; and it must be particularly mentioned to his praise, that he was early one of those valuable men,\* who turned their hearers from specula-

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\* It is probably to this passage that Dr. Erskine refers in the appendix to his Funeral Sermon for Principal Robertson, when he says:—"Some sons of the clergy, unjust to their worthy fathers, ascribe to Dr. George Wishart the honour of first introducing to our pulpits, a rational, accurate, and useful strain of preaching. Surely they could not be ignorant how much the writings are still admired of Leighton, Scougal and Dunlop, who lived and died long before the amiable doctor. I acknowledge, the cruel persecution after the restoration, obliged many ministers to preach with little study and with little accuracy. Afraid they might never enjoy another opportunity of addressing their beloved hearers, they often crowded a vast variety of matter into one discourse. The multitude, too, of their divisions and subdivisions, would have blunted the force of truth, had not an uncommon measure of divine influence accompanied and blessed their honest and hazardous labours. After the Revolution, from habit, they often retained a manner of preaching which had no longer the apology of necessity. In this, they were too much imitated by some of the next generation, who justly valued their piety and zeal. By degrees, however, the good sense of a large proportion of our clergy, and their acquaintance with the best compositions of English divines, both of the Church and Dissenters, corrected those blemishes, improved their taste and convinced them that the charms of truth might be concealed by a sordid and slovenly dress. About 1730, a few young ministers and preachers, avoiding a negligent style, and an unnecessary multiplying of heads, were betrayed, by a blind admiration of Lord Shaftesbury, into the opposite extreme, of pompous, florid, and ill connected harangues. Happily, however, this flimsy taste was soon checked; not only by the contempt and displeasure of the greater part, both of ministers and people, but

tion to practice, from barren speculation to rational religion; from subtle distinction in opinion to the culture of true piety and virtue; wisely guarding them against the weakness of superstition on the one hand, and the dreams of enthusiasm on the other. Distinguished as he was by uncommon talents for conveying the truths of religion in a clear and persuasive manner, and by general applause from men, he still retained the original and engaging modesty of his nature, assumed no air of superiority to other men, did nothing through strife or vain glory, but, in lowliness of mind, was apt to esteem others better than himself; and if it can be said of any man, it may be said of him, that the same mind which was in Christ Jesus, was also in him."

Mr. Henry Mackenzie, in his "Life of John Home," (p. 18,) thus speaks of his personal appearance:—"Of George Wishart, minister of Edinburgh, and another of what was termed the *moderate party*,\* the figure is before me at this moment. It is pos-

by the translation of Fenelon and Rollin's writings, and the just sentiments of eloquence which they inculcated. From these, and other causes, about the time of Dr. Robertson's academical education, and immediately after it, perhaps as much as at any period, a great part of the ministers of Edinburgh, and of the country, endeavoured, with success, to gain the attention and esteem of their hearers, not to themselves, but to the glorious truths and duties which they taught. Perhaps, few of them equalled Dr. George Wishart, or Dr. Patrick Cuming, in an easy, fluent, neat and elegant style: Dr. Cuming, in extensive historical and critical knowledge, judiciously applied for the purposes of instruction and edification; Dr. Webster, in a tender, pathetic address; and Dr. Wallace, and Dr. William Wishart, in depth of thought, originality of genius, and the art of gaining attention to the most common and necessary subjects, by new reflections, illustrations and arrangements. But many of those, from unwearied study, both of the doctrinal and practical part of the sacred oracles, from acquaintance with the human heart, and Christian experience, though less admired as polite or as popular preachers; yet feeling what they preached, kept back from their hearers nothing profitable, and approved themselves workmen who needed not to be ashamed, rightly dividing the word of life. It is to be regretted, that the modesty of those excellent men has deprived posterity of the edification which it might have received from their writings: so that Crawford's Dying Thoughts, and Zion's Traveller, Bannatyne's Mistakes about Religion, and Maclaurin's posthumous sermons and essays, are almost the only larger publications of divines of those times, to which I can appeal in proof of what I have now observed. The evangelical strain of Boston of Ettrick, and some of the first leaders of the Secession, is, indeed, justly valued by many serious Christians of almost all denominations. Their works, however, would have been more generally read, and probably proved still more extensively useful, had they avoided blemishes of style, now become less common, than in the end of the last, and beginning of the present, century."

\* In classing Dr. George Wishart with the *Moderate Party*, Mr. Mackenzie must be understood as referring more to his style of preaching, than to his Church-politics. It will be seen, that Dr. Drysdale claims him as one of the founders of his own school of pulpit-eloquence; but in matters of ecclesiastical polity, he was commonly found (at least in the early part of his career) rather on the *popular* side, like his brother the Principal. Mr. Mackenzie is in a still greater error in classing Dr. Patrick Cuming in the "high party," along with such men as Drs. Webster and Dick.

sible some of the Society who hear me\* may remember him.—Without the advantage of that circumstance, I can faintly describe his sainted countenance—that physiognomy so truly expressive of Christian meekness, yet, in the pulpit, often lighted up with the warmest devotional feeling. In the midst of his family society—a numerous and amiable one—it beamed with so much patriarchal affection, and benignity, so much of native politeness, graced with those manners which improve its form, without weakening its substance, that I think a painter of the Apostolic School† could have no where found a more perfect model.”

The ministers put on the leet along with him were, Messrs. George Gordon, Alves, and John Adams, Falkirk, the latter having had the chair in 1744. In his closing address, he referred with pleasure to the overtures the Assembly had adopted respecting the exclusion of non-conformists from the calling of ministers, and the preaching on Revolution principles (see pp. 108, 109):—“What a happy improvement would it be of the late wicked attempt to deprive us of all that is dear to us, if it was a means of extinguishing all those heats and animosities which have sometimes been among us, and of inspiring us with stronger sentiments of brotherly love and friendship, as embarked in one common cause of the greatest importance. The prevalency of such a spirit would be our strength and our glory. ’Tis abundantly evident what mischief must arise from party-differences among the friends of our happy constitution. Let us, for our part, keep ourselves disengaged from all party-views and interests,—let those narrow attachments be swallowed up in zeal for those things which are of universal importance, and of the utmost concern. Those things promote the good of all, even of our enemies themselves, if they were of a disposition to be made happy, and *knew when they were well.*”

1749. *Mr Patrick Cuming.*—He was born in 1695; and on the death of Mr. Matthew Crawford in 1737, became Professor of Church History in the University of Edinburgh, and one of the ministers of the city.‡ His Text-book as a Professor was *Jo. Alphonso Turretini Compendium Historiæ Ecclesiasticæ*. He resigned the chair on the 18th June 1762, in favour of his son Robert, who, it is said, made the appointment a sinecure.¶ Dr. Erskine speaks of Dr.

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\* The “Life of Home” was originally drawn up for, and read to the Royal Society of Edinburgh.

† “I am aware that there is no such school technically so called; but I shall be easily understood to mean that class of painters whose subjects led them so often to exhibit the sainted countenances of our Saviour and his disciples.”

‡ He was an ordained minister however, so early as 1720. In the Acts of Assembly, I find mention made of a “Patrick Cuming,” both at Ormiston and Lochmaben.

¶ Dr. Cuming’s colleague in the Theological Faculty was *Dr. John Gowdie*, (sometimes anglicised into *Goldie*) Professor of Divinity, whose text-book was *Ben. Picteti Theologia Christiana*. He was born in 1682, and about the year 1703 was settled at Earlston, where he remained till the year 1730, when he was transported to Edinburgh. Boston of Ettrick, who was long a co-presbyter of his, bears this testimony to his character, when speaking of the Synodical discussions regarding the oath of abjuration, in



Patrick Cuming as a man of extensive historical and critical knowledge; and as a preacher, equalled by few, "in an easy, fluent, neat, and elegant style." He seems chiefly to have excelled, however, as a man of business; and after his removal to Edinburgh was not long in becoming the recognized leader of that party in the Church, which assumed the name of *Moderate*.

The prominent features of his *early* policy, as well as of his personal character as a leader, have been well delineated by Sir Henry Moncrieff: "The two parties, who were understood to divide the Church, were not exactly characterized by the same doctrines, which have since distinguished them. Both, at that time, admitted the constitutional necessity of a call from a parish, to become the foundation of a pastoral relation, between a presentee and the parishioners; but they who called themselves *the moderate party*, affirmed the legal call to be limited to heritors and elders, (according to the spirit of the Act of

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1712:—"I had from that time a particular regard for Mr. John Gowdie, minister at Earlston, a grave and learned man, upon the account of his candour and ingenuity, though joined with principles very contrary to mine: he owned, that the ministers, in the year 1648, would not have taken that oath, according to their principles. And in this regard to that brother, I had been, since that time, all along confirmed; and even in the Assembly 1729, in Professor Simson's affair; the man dealing plainly and candidly, according to his light; though in such matters of more public nature, he and I were still on opposite sides of the question." The following is not quite so complimentary. "On August 30, (1713,) continuing my ordinary, Hos. xiv. I did withal return to explain the catechism; but began at the duty which God requireth of man. And judging the discovery of the exceeding breadth of the command to be of great importance, I did insist on the ten commands very largely; so that the sermons on them ended not till August 28, 1715, two years after this. Which brings to mind an occasional encounter, before our presbytery, with Mr John Gowdie above mentioned; who happening to tell us of his preaching catechetical doctrine, shewed, that he had cursorily gone over the ten commands, as judging that best for the case of the people: I found myself obliged to declare before them all, that I was quite of another mind; the fullest unfolding of the holy commandment being necessary to discover the need of Christ, both to saints and sinners. But I have always observed narrow thoughts of the doctrine of free grace, to be accompanied with narrow thoughts of the extent of the holy law." Mr. Gowdie succeeded Mr. James Smith as Professor of Divinity, in 1733, and Dr. William Wishart, *Secundus*, as Principal, in 1754. Bower says (History of the University, vol. II. p. 285) that, "he was generally esteemed a man of moderate abilities, but very attentive to the discharge of his academical duties." He was Moderator of the Assembly in 1733; and, when at the November Commission, the question was put in reference to Ebenezer Erskine and his three brethren, "Proceed to a higher censure than suspension, or not," it carried by his casting vote "Proceed," for which he incurred a good deal of odium. Professor Gowdie's only publications were, 1st, "Salvation of Souls, the desire of every faithful minister," in Two Sermons, 1732; and 2d, "The Propagation of the Gospel, and the Blessed Effects thereof, "a Sermon on Isa. xi. 6—9, being the Anniversary Sermon for the Society for Propagating Christian Knowledge in 1735. He died on the 19th February 1762, in the 80th year of his age, and the 59th of his ministry. His wife was Anne Ker, eldest daughter of Walter Ker of Littledean; she survived him till the 21st April, 1764.

Assembly of 1732;) while the other party contended (as the original Seceders had done) for the right of the parishioners at large, or at least of the heads of families, to be admitted as callers. The former had the support of the government, who, by this time, perpetually interfered in the management of assemblies, and especially on every point, which related to the settlement of ministers; while the latter derived their chief strength from popular favour, and from the influence of those who deprecated every measure which they thought was calculated to alineate the people from the Established Church, and to lessen the usefulness and respectability of the parochial ministers.

“ Archibald, Earl of Isla, afterwards Duke of Argyle, came to have the chief management of Scotch affairs; and under him *Dr. Patrick Cuming*, one of the ministers of the city, and Professor of Church History in the University in Edinburgh, was the chief ostensible leader in the Church. Dr. Cuming was certainly a clergyman both of worth, and of talents. His distinction as a man of letters, and as a preacher, entitled him to every degree of respect. His powers of conversation raised him above his contemporaries. His capacity for the management of public business gave him sufficient advantages, in his political character; though his influence, in a great measure, depended on the administration which supported him.

“ The party, under his management, did not pretend to attempt the abolition of *calls*, in the settlement of ministers; and always professed to require the call of heritors and elders, before they gave effect to a presentation.

“ But, under their management, it was seldom difficult to procure such a call as satisfied them, even in cases, in which the great body of parishioners were hostile to the settlements. By the influence of the patrons, which came to be more keenly exerted than was usual at an earlier period, and the help of non-resident heritors, they seldom failed to effect their purpose. And when the Assemblies executed their sentences by committees of their own, the induction of the presentees was completed, even where the opposition was strongest, without either encroaching on the scruples of one class, or being defeated by the timidity of another.

“ It must be evident, however, that the appointment of such committees was neither sanctioned by constitutional law, nor justified by any experience of its expediency. It diminished the immediate difficulty of executing the sentences of the Assembly. But it had no tendency to remove the prejudices of the people; and was evidently calculated to lower, in their eyes, the respectability of the ministers, who were inducted by means so unusual and irregular.

“ The last committee on this service was appointed in 1751; and, from this time, the Assemblies peremptorily required the execution of their sentences, to be completed by the Presbyteries respectively.”  
—*Appendix to the Life of Erskine*, p. 457.

Though Dr. Cuming acquiesced in this new line of policy, it did not originate with him, but with a few younger and bolder spirits, at whose head was Robertson, then minister of Gladsmuir. From this period, Cuming's influence gradually declined; and when Robertson was translated to Edinburgh in 1758, he very soon obtained that ascendancy in the councils of the moderate party, which he preserved

unimpaired for upwards of twenty years. Indeed, at no period had Cuming's *personal* influence been equal to that which was acquired by the Principal. A striking proof of this occurred in the years 1753 and 1754, in the settlement of the office of Agent for the Church. Though Dr. Cuming strained every nerve to secure his object, he was on both occasions defeated by large majorities. Having drawn up, and published his "Reasons of Dissent" from the Assembly's decisions in the case, a committee was appointed to prepare answers; and both documents display a good deal of keenness. The committee commence their reply thus:—

"It is with the greatest concern we find the Rev. Professor Cuming and his adherents have thought themselves obliged to dissent from the proceedings of so venerable a body as the General Assembly of the Church of Scotland, upon the reasons after mentioned, and others which they say they have, but which they have not thought proper to divulge. We regret extremely, that any thing should have obliged the *Rev. Professor* to conceal any of the grounds of his dissent. For though the act is done, and cannot be recalled, we would wish, in future emergencies of the like nature, to be properly informed of every thing which could be offered on the subject: and could not, with reason, expect more instruction, than from the *Rev. Professor whose special province leads him to more acquaintance with ecclesiastical proceedings than others*. But seeing he has left us entirely in the dark as to some of the reasons for his protest, and as those with which he is pleased to favour us, though no fewer than eight, derive all their supposed strength from a misrepresentation of facts; it seems proper to begin with a true state of the case; which, as it moved us to be of the number of those who concurred in the proceedings dissented from, will, at the same time, it is believed, serve as a good answer to any objections which have been, or may be made against the Assembly's procedure."

The conclusion is in a similar spirit:—"When what is founded on these two Reasons of Dissent is laid aside, nothing remains of all the *eight*, except the important question, Whether the Assembly should have determined the affair on a Saturday, or on a Tuesday? With respect to which, however much the Dissenters enlarge upon it, we must be excused for being of opinion, that it is a thing which does not admit of a serious argument. In vain do they allege, that many members don't come to town, or attend, on the three first days of Assembly, on the faith that no great business is then transacted, when in fact the members were come to town, and did attend, in so much that the number of the Assembly on Saturday, was within two or three of their number on the Wednesday following, when the most important affair was before them. And we must be forgiven to say, that the pretext for a delay till Tuesday, that the members might have an opportunity to deliberate on so material a concern of the Church, is not so consistent with the known *candour* and *openness* of THE REVEREND PROFESSOR and his adherents; and we may venture to affirm, that many members of less penetration saw through the whole affair even before the Saturday. The instance they give, of the proceedings of the Assembly 1743 with respect to the election of Messrs. Baillie and Macintosh, is not very lucky for their cause. They tell us, it was first moved on the Saturday, and determined on the Tues-

day thereafter ; so that, according to their account of the matter, the whole affair was no longer in agitation than in the present case : for we hope the Dissenters will not allege, that the Reverend and Honourable Members of that Assembly chose the clerkship for the subject of their devotion on the Lord's day. But as the Dissenters have reserved some reasons *in petto*, possibly they wanted a delay till Tuesday, hoping, by the prudent application of means which have been used successfully on other occasions, to be able, against that time, to make a fresh push for putting it off to a further day, and then another to have put it off altogether, and thereby given a candidate they had in view, the chance of Mr. Baillie's death, and another Assembly. If this was their intention, we cannot help being of opinion, that respect to the Assembly, whose time is not to be consumed unprofitably, tenderness for Mr Baillie, whose interest depended so much on present execution, and regard for Mr. Edmonston, who is known to be every way well qualified for the office, all concurring in support of the resolution taken by the General Assembly, are more than sufficient to answer whatever has been alleged against it. We cannot conclude without observing, that as the dissent was not entered against the resolution of the Assembly on Thursday to commit the affair, nor from their resolution to determine it on Saturday, but from their subsequent decision, accepting of Mr Baillie's resignation, the TITLE of the Reasons of Dissent is not easily reconciled with truth ; and all that is offered in them against the Assembly's not delaying till Tuesday, quite beside the purpose, being levelled against a sentence not dissented from ; that is, in plain English, a mere *aftergame*, not so becoming the Rev. Dissenters, to colour over a protest devoid of argument, and destitute of every reasonable support."

When the Assembly of 1770 allowed a notorious delinquent (Stewart of Glendovan) to escape merited deposition, we find Dr. Cuming among the Dissentients, along with others of his party. He published a Sermon preached on Dec. 18, 1745, the Fast-day for the Rebellion ; also, a Sermon on Matt. xi. 5., being the Anniversary Sermon for the Society for Propagating Christian Knowledge. 1760.

Dr. Cuming was *three* times Moderator of the Assembly, *viz.*, in 1749, 1752, and 1756. In 1749, there was put on the leet along with him, Mr. David Blinshall of Lamington, but "Mr. Cuming was chosen *unanimously*." To this circumstance he refers rather pompously in the outset of his address :—"As to you belongs the power of choosing your Moderator, and as you have unanimously chosen *me*, I should be lost to friendship, the noblest virtue, and guilty of ingratitude, the worst of vices, if I did not declare, in the most public manner, the warm sense I have of the distinguished honour you have done me. I do not owe it to any party, or to those only of one way of thinking, but to you all." He goes on to speak of patronage :—"The law of patronage is a hard law, which we, of ourselves, are not able to repeal ; it may involve us in many difficulties, and a regard to it may expose us to great reproach. But one thing is in our power, which would in a great measure prevent those hardships, and that is a faithful discharge of the great trust reposed in us of licensing preachers and ordaining ministers. If such care were taken, patronage must become less burdensome, and every congregation would be well-provided." He then alludes to the *Augmentation-Scheme*, which he says;



he always had very much at heart :—" Who is there that is acquainted with the state of the ministers of the gospel in this country, and has a sincere friendship for the Church of Scotland? who is there that loves religion and learning—nay, who is there that has any bowels of compassion, but must feel for the deplorable circumstances of many worthy families struggling with want and poverty, groaning under a burden which is like to sink them, and overwhelmed with sorrow at the prospect of the miseries of their children, and posterity? The very gaiety and cheerfulness of their infants, which gladdens the hearts of parents in these circumstances, make them melancholy when they consider the misery to which they are born. What noble mind but must be touched with the view of that ignorance and barbarity which must soon spread itself over the country, if those who are to be teachers of religion shall have no education, no knowledge, no learning? and, from that anxiety which poverty is apt to create, no freedom of mind to search for truth, and improve in the knowledge of religion; or if by christian fortitude they should become superior to the evils of life, yet must they fall under such contempt as to be incapable of recommending religion with success. 'The poor man's wisdom is despised, and his words are not heard.' We expect, we acknowledge, no great things—nothing but what may contribute to the advancement of religion—the security of our happy constitution—and promote the interests of knowledge and learning. Lands are greatly improved, the emoluments of all professions and employments are increased—men of all callings are capable of reaping advantages by them;—and should the ministers of the gospel be only excluded?" After referring to the first Book of Discipline as an authority on this subject, he adverts to the General Peace which had not long before been concluded :—" What avails us that we enjoy public peace, if we ourselves are enslaved by our passions, and do not enjoy that calm of mind, that peace of conscience, which will heighten all the pleasures of prosperity, and support us under all the distresses of human life. Let us part from one another in love and friendship—let us leave all our animosities behind us, and keep up that friendly correspondence which will make our society upon earth to image that which we hope to enjoy in heaven." His text, in opening the Assembly 1750, was Isa. xxxiii. 6.

The account of his election to the chair in 1752, and his concluding address then, have been already given at pp. 260, 288.

Dr. Cuming married a Miss Jean Lauder, who predeceased him on the 23d Nov., 1769. He himself died on the 1st April, 1776, in the 81st year of his age, and 56th of his ministry.\*

1750. *Mr Robert Paton or Patoun.*—He was born in 1690, and became minister of Renfrew. He seems to have acquired much reputation in the Church as a man of business, and took a lead in his own Presbytery and Synod, as also in the Assembly. In 1746, he was an unsuccessful candidate for the office of clerk to the Church (see p. 86). Having been a warm promoter of the Augmentation

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\* In the announcement of his death in the newspapers, he is styled "of Rylucas," which probably denotes a place in the parish of Edinkillie, Morayshire, now the property of Sir Thomas Dick Lauder. The name Cuming is very prevalent in that county.

Scheme, that circumstance, no doubt, contributed to his election as Moderator in 1750, "by a very great majority"—the only other person on the list being Mr Walter Sim of Tullynessle. Mr Paton went to London as one of the Church Commissioners for carrying the scheme through Parliament (see p. 166.) There appeared in 1739, a sermon by him on "the Main Duty of Bishops"—but it was said to be "done from a copy taken in short-hand, the author refusing to consent to the publication of it."

In his closing address as Moderator, after alluding to his being "called so unanimously into the chair," he says:—"It is well known, I believe, to many in this house, that I was so far from ambitious expectations of this kind, that if a social principle of regard to the interests of my brethren, and to the interests of religion, which I reckoned connected with them, had not overruled a favourite scheme I had formed of retirement and disengagement, I would have deprived myself of the opportunity of receiving this honour from you." The reference here, and in what follows, is to the "Augmentation Scheme," (in the promotion of which he bore a prominent part.) "To express my own sentiments honestly upon this subject, so as to give no occasion of dissatisfaction to any, is far beyond any skill I can command. The place wherein I now stand might well authorise me in a humble and modest manner to justify the proceedings of the Assembly upon this affair. But as this might be reckoned an improper season for it, it is to be hoped they may be able to justify themselves to the unprejudiced and disinterested. \* \* \* Sorry, indeed, are we,—heartily sorry, that some very honourable members of this Assembly, of the highest character, of the greatest influence, to whom we lie under the greatest obligations of gratitude in times past for the favours they have done this Church, and from whose favour and influence we still expect many good things in time coming—sorry we are, I say, that they should have expressed their dissatisfaction with some of our proceedings upon this head." (See p. 167.) With respect to disputed settlements, and the necessary subordination of judicatories, he says:—"What so nearly affects the very being and constitution of our Church can never tamely or weakly be given up to gratify the reluctance of some Presbyteries, or the untractable humour of some particular parishes." Mr Paton died in April 1768, aged 78.

1751. *Mr. James Mackie*.—He was minister of Forteviot in Perthshire, whence he was translated about the year 1735 to St. Ninians, but not without opposition, which was the more easily stirred up against him, because he had been one of the "warm managers" against Ebenezer Erskine, when censured for the famous sermon before the Synod of Perth and Stirling in October 1732. The Presbytery of Stirling rejected Mr. Mackie's call, and refused to admit him; and when a committee of the Assembly's Commission met to induct him, they absolutely refused to give him their presence or countenance; only three of their number attended that "clandestine meeting."\*

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\* See the Testimony and Contendings of the Rev. Mr. Alexander Hamilton (of Stirling,) against the violent settlement of Mr. James Mackie: with a Preface by Ebenezer Erskine; as quoted in *Fraser's Life of Erskine*, p. 338, 402.

Yet Mr Mackie was a decidedly evangelical minister; and frequent mention is made of him in "*Robe's Monthly History*," in connection with the revivals of religion which followed that of Cambuslang in various parts of Stirlingshire. He was brought forward for the Moderatorship as an Advocate of the Augmentation Scheme, (see p. 190), and carried it against Principal Wishart by a majority of 14.

He said in his concluding address:—"I am very sensible of my unfitness in every respect for the discharge of the important trust you committed to me." He refers to the death of the Prince of Wales (see p. 190); then to the importance of the ministerial work, which he says is "worthy of our rational nature, is worthy of angels." He concludes with an address to the elders on the opportunities they have for usefulness, and on their consequent responsibility. His text in 1752, was 1 Tim. iv. 16.

1752. *Mr. Patrick Cuming*.—See above, under the year 1749.

### III.—NOTICES OF THE OFFICE-BEARERS OF THE ASSEMBLY.

1. *The Procurator for the Church*.—From the year 1731 to 1746, the offices, both of Procurator and Principal Clerk were held by *Mr. William Grant*, Advocate, afterwards *Lord Prestongrange*. He was the second son of Sir Francis Grant of Cullen, a Lord of Session. He passed as advocate the 24th February, 1722; and on the death of *John Dundas of Philpston*, (author of the "*Abridgement of the Acts of Assembly*" 1638—1720,) was elected Procurator for the Church and Principal Clerk of Assembly, the 13th May, 1731. The circumstance of his father and he having always taken a deep interest in church-affairs, and having both written on the subject of patronage, no doubt, contributed to his appointment. In 1737, he became Solicitor-General for Scotland, when the Assembly "being resolved to confer a mark of their favour and regard for him, enacted (May 24,) that it should be lawful for him, as often as he should be necessarily absent, to appoint any other person to officiate for him as clerk" upon certain expressed conditions. In 1738, he was named by patent, (dated 28th August,) one of the Commissioners for improving the fisheries and manufactures of Scotland. On the downfall of Walpole's ministry in 1742, he was supplanted in the office of Solicitor-General by the younger Dundas of Arniston; but, upon the 26th February, 1746, (on the elevation of Craigie of Glendoick to the bench,) he was created Lord Advocate of Scotland, when he resigned, though with evident reluctance, the offices he held of the Church. In 1747, he was elected M.P. for the Elgin district of burghs. On the death of Patrick Grant, Lord Elchies, in 1754, he succeeded him, both in the Courts of Session and Justiciary, under the title of *Lord Prestongrange*. In 1755, he was appointed one of the Trustees for the Annexed Estates. His character has thus been delineated by *Lord Woodhouselee*, in his *Life of Lord Kames*:—"Of a character very different [from that of Lord Elchies] in respect of temper, and of abilities, if not so profoundly scientific, yet more various, and more extensively useful, was his namesake, and successor on the bench, William Grant of Prestongrange. There was in him a rectitude of moral feeling, and a principle of virtuous integrity, which regulated the whole of his conduct; and these, accompanied with a candour of

judgment, a liberality of sentiment, and a winning gentleness of manners, which were the pure offspring of a warm and benevolent heart. These qualities shone conspicuously in his discharge of the office of King's Advocate, which he held for six years, soon after the Rebellion 1745-6. In that situation, his conduct, in the adjustment of the claims on the forfeited estates, merited universal approbation. It was regulated by a principle of equity, tempering the strictness of the law; and indicated a mind superior to all the illiberal prejudices that are the offspring of party-spirit. In the prosecution of criminals, if at any time he allowed his passions to influence his conduct, it was ever on the side of mercy and humanity. His eloquence was clear, correct, and copious, and seemed to be the result of his natural feelings, and the fruit of his own persuasion of what was just and right. The promotion of this excellent man to a seat in both the Supreme Courts was attended with the universal approbation of the public; for his talents equally commanded the respect, and his virtues the esteem of his fellow-citizens."\*

Lord Prestongrange died on the 23d May, 1764, at Bath, whither he had gone for the benefit of the waters. His body was brought to Scotland, and buried in the family aisle in Prestonpans Church, June 7. His Lordship left issue three daughters, *viz.*, *Janet*, married in 1748, to John Carmichael of Castlecraig, cousin of the Earl of Hyndford, and who, in 1767, succeeded to the Earldom (see p. 296;); *Agnes*, married in 1757, to Sir George Suttie of Balgonie, Bart.; and *Jane*, married in 1756, to Robert Dundas, younger of Arniston, then Lord Advocate, and afterwards Lord President. His only son William, died in London of fever in his 12th year, on the 18th March, 1756.

When Mr. Grant was appointed King's Advocate in 1746, he expected the Assembly would still allow him to retain the offices of Procurator and Clerk, but by a great majority, they found that these offices were now at their disposal, (see p. 84.) They also resolved that as the offices were distinct, they would confer them upon different persons. The candidates for the Procuratorship were *Messrs. James Erskine*, junior, son of Charles Erskine, Lord Tinwald, and *David Dalrymple*, son of Hew Dalrymple, Lord Drummore; the latter was elected, (see p. 85.)

*Lord Drummore*, Mr. Dalrymple's father, was for many years a regular and most active member of Assembly,† and generally took

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\* "Lord Prestongrange was a man of general reading, and a correct and able writer. He was author of one of the best political pamphlets that appeared on occasion of the Rebellion 1745-6. It is entitled, *The Occasional Writer: being an Answer to the Second Manifesto of the Pretender's eldest Son: containing Reflections, Political and Historical, upon the last Revolution and the Progress of the present Rebellion in Scotland.* London, 1746. The arguments contained in this pamphlet are dictated by good sense and sound political wisdom; and are urged in a strain of such temperance and moderation, as to conciliate the favour even of those whose party prejudices were most strongly in opposition to the doctrines it inculcates."

† So, indeed, were several of the most eminent judges, who flourished during the period embraced by the present volume; such as Forbes of Cul-



part with the *popular* side of the Church. He was the second son of Sir Hew Dalrymple of North Berwick, and consequently grandson of the great Viscount Stair. He was born on the 30th Nov., 1690; was admitted advocate in 1710; became a Lord of Session in 1726, and of Justiciary in 1745, and died on the 18th June, 1755, aged 65. Lord Woodhouselee says of him,\* that he "inherited the talents and genius of his forefathers. He was an acute and sound lawyer; and possessed a ready, distinct and forcible, though not a polished elocution. He had a great command of wit and humour, which equally enlivened his conversation, and gave interest and spirit to his public harangues; but these qualities were tempered with such sweetness of disposition, that he never employed them to wound or to mortify his antagonist. The great urbanity of his manners, and a keen relish of social enjoyments, endeared him to his friends; and his eminent worth and probity, together with a high feeling of honour, and a noble and ingenuous boldness of countenance and deportment, gave uncommon force and authority to all his arguments and opinions."

Of his son *Mr. David Dalrymple*, we possess fewer memorials. He is sometimes confounded with his co-temporary and namesake Sir David Dalrymple, LORD HAILES,† who was likewise a great-grandson of Lord Stair. He was born in the year 1719; passed as advocate the 8th of January, 1743, and was consequently of only three years standing when elected Procurator. Being appointed receiver of the Church's public money (see p. 86,) he produced as cautioners, his father Lord Drummorie, Hamilton of Dalziel, and George Brown, Advocate, afterwards Lord Coalston. In 1748, he was appointed Sheriff-Depute of Aberdeenshire. On the death of James Ferguson, Lord Pitfour, he was raised to the bench by the title of LORD WESTHALL on the 1st July, 1777; being succeeded in the office of Procurator, (which he held for more than thirty years) by William Robertson, Esq., son of the Principal. The Assembly of 1778, "un-

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laden, Craigie of Glendoick, Dundas of Arniston, (father and son,) Erskine of Tinwald, Elliott of Minto, Boyle of Shewalton, Macdowall of Bankton, &c. Even when they were not members of Assembly, the names of some of them were occasionally added to the list of the Commission by way of compliment. Short sketches of their lives will be found in "*Brunton and Haig's Historical Account of the Senators of the College of Justice from 1532 to 1832*;" and a delineation of the characters of some of them in Woodhouselee's *Life of Lord Kames*. Of James Erskine of Grange, a man who concealed the most grasping ambition and unamiable temper under the cloak of a high religious profession, a too flattering notice has recently been given in the *Christian Instructor*, (February 1838, p. 65). As the name of the Lord President Dundas frequently occurs in the Assembly proceedings of last century, it may be convenient to state, that there were *two* Presidents of that name. The *first* was born in 1685, became President in 1748, and died in 1753; the *second* was born in 1713, became President in 1760, and died in 1787.

\* *Life of Lord Kames*, Vol. I., p. 36. Compare his quotation from Dr. Carlyle's MS. *Memoirs in the Supplement*, p. 6. See also an Extract from the Funeral Sermon preached at Lord Drummore's Death, in the *Scots Magazine* for 1755, p. 291.

† Thus, in the recent pleadings in the Auchterarder Case, some of the counsel speak of Lord Hailes as having been once Procurator of the Church, which he never was.

animously agreed to return thanks to his Lordship for the fidelity and great attention which he had paid to the public business and affairs of the Church committed to him," and a committee was appointed to wait upon his Lordship for that purpose. Lord Westhall died on the 26th April, 1784, in his 65th year, the same age at which his father had died.

2. *The Principal Clerk of Assembly.*—Mr William Grant, advocate, held this appointment along with the Procuratorship, but upon his resignation in 1746, the offices were disjoined. The candidates for the clerkship were *Messrs George Wishart*, Edinburgh, and *Robt. Paton*, Renfrew; the former was chosen (see p. 86.)

Some account of Mr. Wishart will be found in the above Notices of the Moderators, under the year 1748. Mr Robert Hamilton of Edinburgh, (afterwards Professor of Divinity,) acted for him as clerk, while he was in the Moderator's Chair; but the Assembly took care to enter upon the minutes, that "by the power they had given him of deputing a clerk, it was not to be understood that he or any future clerk was to have such power without the previous allowance of the Assembly, and their approbation of the person deputed." Dr. George Wishart acted as Principal Clerk of Assembly for the period of thirty-two years with general approbation. The only exception, so far as I am aware, occurred in the year 1771, when in reckoning up the votes in the keenly contested St. Ninian's cause, he declared the question to be carried in favour of the presentee by a majority of *two*, whereas several members affirmed the majority to be the other way. Dr. Macqueen of Edinburgh, and Mr. Freebairn of Dumbarton, entered a protest on the subject, in which, however, they admitted that "the fidelity of the clerk of the court was altogether irreproachable." The Assembly appointed a Committee to answer this protest, who also bore testimony to the "inviolable faith and irreproachable character of the Clerk." The matter gave rise to some rather sharp correspondence betwixt Messrs. Wishart and Freebairn, in the columns of the *Scots Magazine* (1771, p. 363, 478.)

Dr. Wishart continued to discharge the duties of clerk till the year 1778, when he succeeded in getting *Dr. John Drysdale*, his colleague in the Tron Church, to be conjoined with him in the office. The arrangement seems to have been brought about by Principal Robertson, and not without a little *management*. Dr. Wishart waited till the *second Thursday* of the Assembly, when he gave in the following representation and proposal, viz. "That he has had the honour to serve the Church as their clerk these thirty-two years: that now he finds certain infirmities of age\* coming upon him, which makes him unable to perform the business of his office to that advantage he would wish to do; at the same time, that he still inclines, while it pleases God to continue him in life, to be as useful to the Church in that office as he can:—What he now begs leave to propose to the General Assembly is, that he shall resign his office as Principal Clerk to the Church, into the hands of the General Assembly, to the end that he and another may be elected conjunct in the said office of Principal Clerk, with the survivancy to be in the longest liver

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\* He was now in his seventy-sixth year.

of the two." This proposal was ordered to lie on the table, to be taken in next day before any other cause.

Next day, the Assembly took into consideration Dr. Wishart's proposal. The House in general expressed the warmest regard for Dr. Wishart : but his proposal was not approved of by all. It was alleged, That bringing a matter of so much consequence to a decision at the end of an Assembly, was not doing justice to the Church at large; that therefore it ought to be delayed till next Assembly, when all concerned would have an opportunity of weighing the matter deliberately, and perhaps be enabled to point out some person more eligible for the office, than the one proposed to be conjoined with Dr. Wishart. It was even proposed, that the Doctor should withdraw his motion, as being altogether nugatory ; because, as he held the office only *during pleasure*, it was an absurdity to speak of a *survivancy*. On the other hand, it was contended, That the present Assembly was the fullest which had been known for some years,\* or which perhaps might be for a long time to come ; consequently, this was the properest season for bringing on a business of the present importance ; and, besides, the finishing of it just now, would be a means of preventing a great deal of canvassing in the election, and perhaps undue influence upon the members of next Assembly. With regard to the other objection, Principal Robertson observed, That had any other gentleman than the one they had so unanimously made choice of, been elected Procurator†, he would have made a motion to leave out the words *during pleasure* in his Commission : that his friends proposed to make such a motion before the election, but he begged they would wave it, on account of circumstances, which every one present was well acquainted with : That he did intend to make such a motion upon the present occasion, which would relieve Dr. Wishart's proposal from the absurdity it was supposed to contain. The Principal then went into a history of the election of former Procurators and Clerks. He showed, that before the election of Lord Westhall and Dr. Wishart, the words *during pleasure* were never made use of. The Commission to Lord Prestongrange, who was their immediate predecessor, and who held both offices in his own person, wanted these words. When his Lordship was appointed his Majesty's Advocate, the Assembly thought it incompatible for one person to hold the Procuratorship for the Church and that high office at the same time. His Lordship was of a different opinion. He struggled the point, and lost it by a vote of the Assembly: The offices of Procurator and Clerk were then disjoined. Mr Dalrymple was elected to the one, and Dr. Wishart to the other. The Assembly, to prevent any future contest of such a nature as the former, cautiously added to their Commissions the words *during pleasure* : but that they were virtually meant to be *during life*, appeared evident, from there never having been so much as an attempt to bring on a new election. He gave many instances of the Agents and Sub-Clerks enjoying their offices without those words being added to their Commissions ; and those who held them at present were in the same situation. He therefore proposed, that as there had been one

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\* This was chiefly owing to the agitation of the Catholic Question.

† It was his own son, afterwards Lord Robertson.

motion made already, that motion, and the one which he was now to make, should be put to the vote. The first motion was made by Mr. James Lindsay of Kirkliston, and was as follows:—"That the General Assembly should wave the acceptance of Dr. Wishart's resignation; and, in the mean time, allow him to nominate an assistant for himself, to officiate in the office till next General Assembly." Principal Robertson's motion was, "That the General Assembly should accept of Dr. Wishart's resignation; and immediately proceed to re-elect him, together with an Assistant and Conjunct Principal Clerk, with the survivancy to be in the longer liver of the two;" and named Dr. John Drysdale, one of the ministers of Edinburgh, as a proper person to be chosen Conjunct Clerk with Dr. Wishart. After some short debate, with regard to the state of the vote, it was agreed the words should be, Wave, or Accept; and it carried Accept, 176 to 32. Whereupon Dr. Wishart judicially resigned his office. Then "the General Assembly did, and hereby do, accept of Dr. Wishart's resignation, and declared the said office vacant." Immediately after, the Assembly proceeded to a new election; and "did unanimously nominate, constitute, and appoint, the saids Dr. George Wishart and Dr. John Drysdale to be Conjunct Principal Clerks to the General Assembly, and Commissions thereof; and that they have equal right to the stated salary and casual emoluments of said office, and that, in case of sickness, necessary absence, or inability of either, that the other be obliged to act during such sickness, necessary absence, or inability; and that the survivancy of said office of Principal Clerk shall be in the longest liver of the two solely." Dr. Wishart survived for seven years after this arrangement,—having, as before stated, died in 1785.

3. *Agent for the Church and Sub-Clerk of Assembly.*—The person who held these offices at the commencement of the period embraced by the present volume was Mr. Nicol Spence, writer, with whom, in 1738, had been associated Mr. Robert Mackintosh. Mr. Spence died in February, 1743; and in the Assembly of that year, a resolution was moved by Mr. Gordon, minister of Alves, that "the offices were vacant" by his death. This was opposed by Principal Wishart, who maintained, that in terms of Mr. Mackintosh's election, (see p. 39,) the offices were filled already, and that there could be no vacancy, unless on the supposition that every Assembly may choose new servants. It was decided, however, (though with manifest unfairness to Mr. Mackintosh,) that there was a *partial vacancy*; and "several Reverend and Honourable Members present having declared that John Baillie, writer to the Signet, was a person of fair character, sufficient in his profession, and well-qualified for the said offices," (so the record bears,) he was appointed to the "half of the offices," which Mr. Mackintosh had been compelled judicially to resign. Mr. Baillie had assigned to him the agency for the Church, and Mr. Mackintosh, the Sub-Clerkship of Assembly, and Clerkship of the Royal Bounty (see p. 40.) They do not, however, seem to have drawn well together; for in the minutes of the very next Assembly, we find the following rather unseemly statement:—"The accounts of John Baillie, Conjunct Agent for the Church being produced, and the Committee's Report thereupon being read, the Assembly, observing



some inaccuracy therein, and it being alleged by the said John Baillie as a reason for his accounts not being so distinctly made up as otherwise they would be, that he had not access to the Assembly Records,—*which allegation Robert Mackintosh, who has the custody of the Records refused to be fact*, the Assembly, without farther enquiry thereinto, order, that the said John Baillie have access to inspect the Registers, and other papers belonging to his office so often as he has occasion." Mr. Mackintosh died suddenly on the 4th January, 1758. At the ensuing Assembly, a motion was made at the first sederunt, to inquire into the state of the offices of agent, sub-clerk, &c., which by the death of Mr Robert Mackintosh devolved on Mr John Baillie solely. The Act 1743 was read, by which the aforesaid offices were given to these two gentlemen jointly, with the survivance to the longest liver solely. A motion was made to delay the affair till an after diet. But the question being put, *Commit or Delay?* it carried *Commit*: and the affair was committed. On Saturday the 26th, this committee made their report, according to appointment. With it a letter from Mr. Baillie was given in, proposing to have Mr. James Edmonston, writer in Edinburgh, conjoined with him, and promising to execute a proper resignation for that purpose. It was moved to delay the consideration of the report till Tuesday the 29th: but upon the question put, *Proceed or Delay?* it carried *Proceed* by a great majority: and the report was taken under consideration. Mr. William Alston, writer in Edinburgh, was likewise a candidate: and it having been observed, that Mr. Baillie, by his letter, engaged to resign only in favour of Mr. Edmonston, he signified his willingness to resign in favour of whichever of the two candidates the Assembly should think fit to conjoin with him. The question was put, *Accept* of Mr. Baillie's proposal, as now explained, or *Not?* and carried *Accept* by a great majority. From this resolution Professor Cuming entered a dissent; to which thirty-two ministers and five ruling elders adhered. Then Mr. Baillie resigned into the hands of the Assembly the offices aforesaid, to the end that he and one of the two candidates should be elected. There was long reasoning previous to every question put in this affair; but as the Assembly was proceeding to determine which of the two candidates to appoint, one of the Dissenters, for himself, and in name of all the rest, craved, that it might be marked, that as they had dissented from the resolution accepting of Mr. Baillie's proposal, they were not to concern themselves further in the matter. Then the Assembly, without a division, "did, and hereby do, nominate, constitute, and appoint, the said John Baillie and James Edmonston to be conjunct agents to this Church, and sub-clerks to the General Assembly and Commissions thereof, and clerks to the committee of the royal bounty; and that they have equal right to the stated salaries and casual emoluments of the said offices. But the Assembly order and appoint, that the exercise of the office of *sub-clerk* and *clerk to the royal bounty*, be in Mr. Edmonston, and executed by him; and that the exercise of the other office, of *agent for the Church*, be executed by Mr. Baillie; and that it shall be in the power of the Assembly to appoint any one of them to execute any part of these offices, from time to time, in such manner as they shall direct; and that in case of sickness, necessary absence, or inability, of either, that the other be obliged to act in all or

any of these offices, during such sickness, necessary absence, or inability; and that the survivancy of all the said offices be in the longest liver of the two solely." Messrs. Baillie and Edmonston accepted of the offices, and Mr. Edmonston took the oath *de fidei*. Mr. Baillie did not long survive, having died on the 9th January, 1754, in his 65th year. Professor Cuming, who had opposed Mr. Edmonston's election with extraordinary keenness, made an attempt in the Assembly 1754, to deprive him of the survivancy of the offices, but without success\*. Upon Mr. Edmonston's death in 1781, the offices were divided; Dr. William Gloag, one of the ministers of Edinburgh, was appointed *Sub-Clerk*, and Mr. George Cairncross, writer, (who had acted for Mr. Edmonston for some years before his death,) became *Agent for the Church*.

4. *Collector of the Widows' Fund*.—This office dates from the year 1744, (see p. 63.) The candidates were Messrs. William Grant, (procurator,) Charles Hamilton Gordon, advocate, James Stewart, *Attorney in Exchequer*, George Balfour, W.S., and George Lockhart, writer. They all withdrew except Messrs. Grant and Stewart, when the latter was elected. The salary was fixed at £155; but he was bound to make effectual the payment of the rates, and take the risk of deficiencies. He gave in a bond of cautionry by himself and sureties, for £7000. Mr. Stewart continued to discharge the duties of the office, either in person or by deputy, till the year 1771; but at the Assembly of that year a question was raised in the following manner, as to whether or not he could devolve his duties upon another:—

"On Thursday, May 30, Mr Thomas Smith, minister at Cummertrees, represented to the Assembly, that having repaired to the office of the collector of the fund for ministers' widows, in order to have paid the annual rate due by himself, and also the annual rates due by some of his brethren who had intrusted him with their money, he found no collector there, and was offered a receipt, subscribed, not by Mr. James Stewart, the collector appointed by the General Assembly, but by the Rev. Dr. Robert Dick, as his deputy; that Mr. Smith did not think himself *in tuto*, to pay either his own money, or that of his brethren, upon such receipt; and therefore requested the direction of the Assembly in a matter of such general concern.—Next day, May 31, a motion was made, That a committee should be appointed to inquire into the facts concerning the present state of the collector's health, and the deputation said to be given by him, and all other facts relative to the affair. After long reasoning, the following state of a vote was agreed to, Dismiss this affair, or, Not; it being understood, if it should carry Not, members would be at liberty to make any motion upon the subject that they might think proper? It carried Not, 120 to 95. Then the motion just recited, being renewed, it was agreed to; and the following members were appointed, and were directed to meet in the evening, and report next day, viz. the Moderator, Dr. Alexander Carlyle, Principal Robertson, Dr. Daniel Macqueen, Mr. William Porteous, Dr. John Kerr, Mr John Freebairn, and Mr. Adam Ferguson, ministers; Messrs. Solicitor Dundas, Andrew Crosbie, William Alexander, Alexander Ferguson, John MacLaurin,

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\* See the "Notice of Dr. Cuming," at p. 322.

John Home, and Alexander Belsches, ruling elders. The report was given in on the Saturday, and read. Then an overture was proposed by one member, and a second by another member; and both were read. Then the appointment of Mr. Stewart as collector for the Assembly 1744, and the bond of cautionry by him and sureties, were both read.—Thereafter Mr. James Lindsay, minister at Kirkliston, appeared at the bar, and desired to know, as this was an affair in which he and every minister of the Church of Scotland were concerned, whether it was not competent for him and others to be heard upon it at the bar of the Assembly by themselves or counsel, before the Assembly should determine in it; and Mr. Robert Turnbull, minister at Sprouston, desired to be conjoined with Mr. Lindsay in this claim: and a question being proposed, Hear Mr. Lindsay upon his present mode of application, or, Not? it carried Not, 93 to 86. Therefore the Assembly refused to hear Mr. Lindsay. Against which resolution Mr. Lindsay protested. Mr. Crosbie also protested, for himself, and in name of all those who should adhere to him, against the above resolution: to which protestation adhered Messrs. Alexander Belsches and John Scott, advocates.—Mr. Alexander Wight, advocate, appeared at the bar, and craved to be heard in behalf of Mr. Stewart the collector, before the question, Transmit the first or second overture? should be put. To this the Assembly agreed, and Mr. Wight was heard.—The Assembly, after long reasoning, agreed to the following state of a vote, Transmit the first or second overture to the trustees for the widows' fund? Mr. John Dun, minister at Auchinleck, insisted, That all the voters for the first overture should have their votes marked at their names on the roll; which the Assembly having refused to comply with, Mr. Dun protested against the refusal. Then the votes being asked, it carried, Transmit the first overture,\* 96 to 85. "Therefore the General Assembly, in consideration of the present incapacity of the collector of the widows' fund, and that the collector has no general power of deputation, ordain their clerk to transmit the report of the committee to the preses of the trustees for managing the widows' fund, and recommend to them to meet on Monday morning next at nine o'clock, and take the proper steps for having the office of collector properly executed, and report their procedure at the meeting of the Assembly on Monday." This resolution was intimated to Mr. Henry Hunter, preses of the then last meeting of the trustees. Against which resolution Mr. Andrew Crosbie entered his dissent; to which Mr. Alexander Belsches, advocate, and others adhered.—Next diet, Monday, June 3, Mr. Dun gave in his Reasons of Protest, and Mr. Crosbie gave in his Reasons of Dissent; both were read, and ordered to be kept *in*

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\* The second overture was in these words, viz, "The General Assembly having considered the report of the committee appointed to inquire, &c.; in respect it appears to them, that the collector is incapable at present to execute this office in person, and doubts having arisen how far he may execute that office in its several parts by a deputy, therefore they ordain their clerk to transmit the report of their committee to the preses of the trustees of the widows' fund, recommend to him to call a meeting of the trustees against Monday morning at nine o'clock, to take the steps proper on this occasion, and to report their procedure to the meeting of the Assembly on Monday."

*retentis*.—The report of the trustees of the widows' fund being called for on the 3d of June, the last diet of the Assembly, Mr. Hunter, their preses, reported, that they found themselves no legal meeting. Whereupon the Assembly agreed to take no further steps in the matter."

Mr. Stewart did not long survive this discussion, having died on the 22d June, 1771, being then the oldest attorney in the Court of Exchequer. He was succeeded in the Collectorship of the Widows' Fund by *Dr. Alexander Webster*, who had been one of its originators, and its most active promoter.

5. *Printer to the Church*.—During the period included in the present volume, the Printers to the Church were *James Davidson*, and *Robert Fleming*. The former died on the 6th July, 1764, when Fleming became sole printer. He died on the 8th July, 1770. They printed 500 copies of the yearly Acts of Assembly, but disposed of scarcely half of that number.

#### IV.—LIST OF MINISTERS WHO PREACHED BEFORE THE HIGH COMMISSIONER.

1739. Andrew Shaw, St. Madoes.  
 Frederick Carmichael,\* Monimail.  
 James Stevenson, South Leith.  
 William Craig,† Glasgow.
1740. Thomas Donaldson, Liff.  
 James Naismyth, Dalmeny, (see p. 308.)  
 James Yair, Campvere, (Holland.)  
 James Malcolm, Ewes.
1741. James Glen, Dirleton.  
 George Preston, Markinch.  
 John Stewart, Tealing.  
 John Adams, Dalrymple, (see p. 308).
1742. Frederick Carmichael,‡ Inveresk.  
 David Marshall, Kirkaldy.  
 James Witherspoon, Yester, (Dr. Witherspoon's father.)  
 Robert Blair,|| Athelestaneferd.
1743. George Wishart, Edinburgh, (see p. 316.)

\* The same person who was afterwards at Inveresk, and ultimately became one of the ministers of Edinburgh. He was born at Monimail in 1708, and died at Edinburgh on the 17th October, 1751. He seems to have acquired much reputation as a preacher. In 1757 appeared a posthumous volume of his sermons, which Watt characterizes as "of great merit."—See in this list under 1742 and 1743.

† Minister of St. Andrew's Church, and father of Lord Craig, an eminent judge. He was the author of "An Essay on the Life of Jesus Christ," and of a volume of Discourses, of which a second edition appeared in 1808, in 2 vols., with a Memoir.

‡ "Mr. Carmichael preached a most excellent sermon before his Grace, who, with his whole court, was in deep mourning, on account of the Empress Dowager Amelia."—*Caledonian Mercury*.

|| The author of "the Grave," and father of the Lord President, Blair of Avonton. Born, 1699; died, 1747.—Having been unable to preach on this occasion, "by reason of indisposition," Professor Lumisden of Aberdeen officiated in his room.



- Robert Walker,\* Straiton.  
 Alexander Webster, Edinburgh.  
 Gershom Carmichael,† Monimail.
1744. James Stevenson, South Leith.  
 John Scott, Dumfries.  
 Alexander Macbean, Inverness.  
 Daniel M'Queen,‡ Stirling.
1745. Murdoch Mackenzie, Inverness.  
 Archibald Blair, Garvat.  
 David Moubray, Currie.  
 Edward Buncle, Kirkmahoe.
1746. Robert Patoun, Renfrew, (see p. 324.)  
 Hugh Blair, Canongate, (see p. 83.)  
 John Irvine, Sanquhar.  
 James Mackie, St. Ninians, (see p. 325.)
1747. David Black, Perth.  
 George Preston, Markinch.  
 John Erskine, Kirkintilloch, (afterwards of Edinburgh.)  
 Gershom Carmichael, Monimail.
1748. John Warden, Perth.  
 John Erskine, Kirkintilloch.  
 William Aitken,|| South Leith.  
 James Yair, Campvere, (Holland.)
1749. William Jameson,§ Rerick.  
 James Oswald, Dunnet, (see p. 185.)  
 Professor Leechman, Glasgow.  
 George Bannatyne, Craigie, (afterwards of Glasgow.)
1750. William Craig, Glasgow.  
 William Thom, Govan.  
 James Lindsay, Dumbarnie, (formerly of Lauder.)  
 David Plenderleath, Dalkeith.
1751. Robert Walker, South Leith.  
 Robert Dick, Lanark, (see p. 179.)  
 Hugh Blair, Canongate.  
 John Witherspoon,¶ Beith.
1752. James Allan, Eyemouth.  
 Patrick Bannerman, Kinnoull.  
 Thomas Mutter, Leswalt.  
 John Hyndman, West Kirk.

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\* He was the son of the Rev. Mr. Walker, Canongate, and was born in 1716. He was ordained at Straiton in 1738. was translated to South Leith in 1746, and in 1754 became the colleague of Blair in the High Church, Edinburgh. He died on the 4th April, 1783. His Sermons are much esteemed.

† He afterwards became one of the ministers of Dundee, and was a connection of Mr. Frederick Carmichael, his predecessor at Monimail (see above under 1739), as well as of Professor Gershom Carmichael of Glasgow, who acquired great reputation as a successful teacher.

‡ Formerly of Dalziel, and afterwards of Edinburgh—the author of very able “Letters on Hume’s History of England.”

|| Formerly of Larbert; he died 4th Sept. 1766.

§ The author of a curious but absurd “Essay on Virtue and Harmony,” which appeared in 1751.

¶ Afterwards of the Laigh Kirk, Paisley; and then President of Princetown College, America. Born at Yester, 1722; died, 1794.

V.—LIST OF MINISTERS WHO PREACHED BEFORE THE SOCIETY FOR PROPAGATING CHRISTIAN KNOWLEDGE,—WITH A NOTICE OF ITS PROCEEDINGS.

*The Sermons marked with an Asterisk were never published.*

- \* 1739.—Rev. James Walker, Canongate.†
- \* 1740.—Rev. William Gusthart, Edinburgh.‡
- 1741. Jan. 12.—Supernatural Revelation the only Sure Hope of Sinners. Eph. ii. 12.—By Rev. Mr. Webster, one of the Ministers of Edinburgh.
- 1742. Jan. 4.—The Case of Offences against Christianity considered. Matt. xviii. 7.—By Rev. George Wishart, M.A., one of the Ministers of Edinburgh (see p. 316).
- \* 1743.—Principal Wishart (see p. 309).
- \* 1744.—Rev. George Fordyce, at Corstorphine.
- \* 1745.—Rev. John Hepburn, Edinburgh (see p. 315).
- 1745–6. Jan. 6.—Ignorance and Superstition a Source of Violence and Cruelty; and, in particular, the Cause of the present Rebellion. Psal. lxxiv. 20.—By Rev. Robert Wallace, one of the Ministers of Edinburgh (see p. 300).
- \* 1747.—Rev. William Aitken, Leith.
- 1748. Jan. 4.—A Sermon on Matt. vi. 10.—By Rev. Robt. Walker, one of the Ministers of South Leith.
- \* 1749.—Rev. James Stevenson, South Leith.
- 1750. Jan. 1.—The Importance of Religious Knowledge to the Happiness of Mankind. Isaiah xi. 9.—By Rev. Hugh Blair, A. M., one of the Ministers of Canongate.
- 1751. Jan. 7.—On Christian Zeal. Gal. iv. 18.—By the late Rev. Mr. Frederick Carmichael, one of the Ministers of Edinburgh§.
- 1752. Jan. 6.—The Nature and Necessity of a Religious Education. Eph. vi. 4.—By Rev. John Bonar, A.M., Minister of the Gospel at Cockpen (afterwards at Perth).

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† He died March 3, 1751, in the 73d year of his age, and the 51st of his ministry. He is not to be confounded with *Mr. John Walker*, who was also one of the ministers of the Canongate, and to whom this Society lay under peculiar obligations. He died on the 13th Nov., 1741. The following character of him appeared in the *Edinburgh Evening Courant* of Monday, Nov. 16:—"Died, Mr. John Walker, one of the ministers of Canongate, a very eminent and learned divine, aged 61. He was in the 31st year of his ministry, which he filled with unwearied diligence, unwearied application, and great success. He was a laborious student, a gentleman of great temper and uncommon penetration, an accurate and edifying preacher. His knowledge in church-affairs is scarce to be equalled; and his distinguishing services towards the *Society for Propagating Christian Knowledge*, particularly in the most critical and difficult juncture, are well known, and will not soon be forgotten. Few lives were more valuable, and scarce any one died more lamented."

‡ He was Webster's colleague in the Tolbooth Church, and had been formerly minister of Crailing. Being one of the Non-jurors, he was, about the year 1718, sent by them to London, with an address to King George. He became a Dean of the Chapel Royal, and died in 1765.

§ Mr. Carmichael died before the publication of his Sermon.

The following are a few notices of the state and progress of this Society at different periods, between 1738 and 1752 :—

1739.—“ At a General Anniversary Meeting of the Society for Propagating Christian Knowledge, the Most Hon. the Marquis of Lothian was unanimously re-elected President ; Mr. William Grant, Secretary ; James Davidson, Treasurer ; James Nimmo, Comptroller ; David Spence, Accomptant ; Nicol Spence, Clerk. And, as a Committee of Directors, Commissioner George Drummond, Mr. Patrick Haldane, Mr. William Hall, Mr. Albert Monro, Thomas Dundas, Charles Hope, William Hogg, Dr. John Riddel, Alexander Nisbet, George Cunningham, James Baillie, Messrs. James and John Walkers and John Hepburn, and James Donaldson, junior.

“ This Society was erected into a corporation by letters patent in the year 1709, and maintains 113 schools, at which there are about 4000 scholars, besides vast numbers who have been learned to read, and are now employed in business. They have sent four Missionaries to America.”

1741.—“ The Society for Propagating Christian Knowledge have now in the Highlands of Scotland 131 charity-schools, at which upwards of 5000 scholars are educated. They have three Missionaries in New-England, and one in Georgia, and have very satisfying accounts of the success of this last. They have engaged to send two Missionaries to the banks of the river Susquhanna, on the borders of Philadelphia, and one to North-Carolina, for the benefit of a colony from Argyleshire, who are settled 100 miles up a navigable river, and border on the Indian natives.—The Society's project\* for educating poor children in manufactures, &c., at the same time that they are taught reading, &c., is going forward, and the donations made for that purpose are to be applied accordingly.”

1747.—“ The progress made in spreading the gospel among the infidel Indian natives, living on the borders of the provinces of New-York, New-Jersey, and Pennsylvania, by means of the missionary ministers employed there by the Society in Scotland for Propagating Christian Knowledge, has been so remarkable, as appears by their journals lately printed in Philadelphia, that it is with great pleasure the society inform the public of the promising prospect they have of promoting the knowledge of Christianity in those dark corners of the world, being enabled partly to maintain those missionaries by a donation several years ago made by the Rev. Dr. Daniel Williams, deceased. And as a worthy member of the society did lately pay into the treasurer's hands, as the donation of a person who desires not to be known, £1000 Scots, *the stock to remain untouched, and the interest to be applied for supporting the missionaries sent to preach the gospel in foreign parts* ; the society take this opportunity of returning their sincere thanks to the nameless donor, assuring the

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\* In 1738, the Society “ considering the deplorable situation of the remote Highlands in respect to industry, resolved to apply to the Crown for an enlargement of their powers, by which they might be enabled to erect schools for the instruction of children, and especially female children, in some of the necessary and useful arts of life.”—In 1741, there was published “ a Gaelic and English Vocabulary for the use of the Charity-Schools in the Highlands,” by Mr. Alex. Macdonald.

person that the money shall be applied in exact conformity to the will of the benefactor. Our society is extremely obliged to many well-disposed persons in England, who have from time to time given us large contributions ; and we in particular acknowledge the receipt of £200 Sterling lately paid in to our cashier's hands at London from an unknown donor, besides some smaller donations received there since, from persons unknown, amounting to £30, for which the society and their correspondents at London have returned thanks to those benefactors, either by advertisements in the English newspapers, or by letters to the gentlemen by whose hands the money was paid in."

1752.—"The Society for Propagating Christian Knowledge, in a state of their affairs, subjoined to the anniversary sermon preached before them, Jan. 6, by Mr. John Bonar, minister at Cockpen, take notice, that at present they educate at their schools in the Highlands and Islands of Scotland near 8000 children ;—that their endeavours to carry on the design of their second charter, for instructing the children in agriculture, housewifery, manufactures, &c., have been attended with a degree of success in this country ;—that it was with pleasure they found the last General Assembly taking measures for having the King's bounty of £1000 sterling, henceforth employed in erecting new parishes in the Highlands, which could not have been conveniently done at first, but would now be the best method of employing that royal donation ;—that their Indian mission has been attended with some success, though they express a sensible concern, that when it appears something to purpose might be done, they should be able to do so little ; that the difficulties of the undertaking are great,—"The Indians (say they) have not the knowledge of God ; they have no mode of worship ; they are scattered over the continent in small tribes ; each tribe has a different language ; they are strangers to agriculture ; hunting is their chief employment ; they follow their game to a great distance from the ordinary place of their abode ; when at home, a whole tribe is not collected into one town, nor within a small compass of ground, but each little town has its own inhabitants ; these towns are for the most part many miles distant from each other, and the nearest of them some hundred miles from the American shore ;—from this view, then, is it not rather a wonder, that the missionaries have done any thing, than that they have not done more ?"—that these circumstances render other measures, besides the mere sending of missionaries, necessary, which ought to excite charitable and well-disposed people to turn their thoughts that way, and lend a helping hand to advance the kingdom of their Redeemer ; that if the governors of provinces would, in their speeches to the Indian kings, recommend the missionaries, this would procure them good treatment in the Indian countries ;—that by the journal of Mr. Azariah Horton, one of the missionaries, which begins October 13, 1749, and ends May 4, 1750, it appears, that in that time he had baptized several adults and children, that a school was kept at Mountack and Shimcock, that about sixty children and young people attended it, and that the means of grace have in some instances been blessed to the quickening and consolation of some of those poor people ;—and that by the journal of Mr. John Brainard, another of their missionaries, it appears, that from the beginning of November, 1749, he preached, and administered the



ordinances, among the Indians settled at Bethel in New-Jersey; that in the beginning of May, 1750, he set out on a journey to preach to the Indians on Susquhannah river, above a hundred miles up the country; but that here, besides the obstacles common in this work, a bar of a very extraordinary nature was thrown in the way; for that the Indians pretended to have just then received a revelation from heaven, which, after having represented the evil of some particular vices, and recommended the sacrificing of a deer, and other idolatrous practices, concludes by telling them, "That God made two worlds, one for the white people, and one for the Indians; that the white people had no business to come into the Indians' country, much less to persuade them to embrace their religion; for that God had commanded the white people to worship him in their own way, and the Indians in theirs; and that though the white people made some pretences of instructing the Indians, yet they had no design of doing them good, but to put money in their pockets, and make the Indians much worse." It is easy to see what influence such a story, when believed among the Indians, must have, to move their aversion to the truths of the everlasting gospel, and to rivet them in their idolatrous practices. Accordingly, the missionary could do very little among this tribe, though in every respect they seemed more humanized than any he had been among."

For a long period the committee for the management of the *Royal Bounty*\* acted in concert with the Society, having appointed many of the Schoolmasters to act as Catechists; but in 1758, in consequence of the fund being otherwise appropriated, these salaries were withdrawn, and the number of schools was thereby diminished.

Various accounts of the Society's proceedings have been published at different times, to which the reader is referred—*e. g.*, one by *Alex. Belsches, Esq.* Advocate, in 1774; by *Dr. Macfarlan*, the Secretary, in 1783; by *Dr. Hunter*, of London, in 1795; by a Committee of the Society in 1796, &c.

## VI.—DOCUMENTS RELATING TO THE COLLECTION FOR THE CHURCH AT BRESLAW.†

### 1. *Letter of Application.*

"*Viris Reverendissimis, Excellentissimis, Doctissimis Clarissimisque, ad synodum generalem Scotiæ, Edinburgi, congregatis, Mecænatibus, Fautoribus et Patronis, Patribus et Fratribus in Christo plurimum colendis, pateant, Edinburgi.*

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\* The *Royal Bounty*, "for the Reformation of the Highlands and Islands," was first given by George I. in 1725, and has since been annually renewed. From £1000 a-year, it was by George IV. increased to £2000. The Committee consists of a number of ministers and elders annually appointed by the General Assembly. They apply the Royal grant to the support of a number of Missionaries and Catechists. I find that in 1739 they resolved "that an ordained minister should not have more than £30 a-year, and an Itinerant Probationer only £20."

† Comp. pp. 169, 219.—None of these documents are to be found in the Printed Acts.

*Excellentissime Domine Præsul,*

*Ac*

*Summe Reverendi, Excellentissimi Doctissimique Viri, ad synodum generalem Scotiae, Edinburgi, congregati;*

*Patres et Fratres omni pietatis et affectus cultu plurimum devenerandi:*

Mirabimini procul dubio, Viri Excellentissimi Reverendissimique, quod ab extrema Germaniæ parte vobis afferantur literæ; sed mirari desinetis, immo gaudebitis, si causam earum intellexeritis.

Placuit nempe Deo O. M. reformatam in Silesia, per 70 fere annos, tyrannide Pontificia, et regimine Austriaco, suppressam, ecclesiam, pristina rursum beare religionis libertate.

Statim post primordia reformationis, lux salutaris doctrinæ etiam Silesiam irradiabat; et gaudebant nostri antecessores multis florentibus cœtibus, templis, et scholis.

Verum, post fata Georgii Wilhelmi, ultimi e gente Piastorum in Silesia Ducis, nec non principatus Bregensis et Lignicensis Domini, qui anno 1675, magno ecclesiæ damno, e vivis decessit, (utpote qui et cujus majores pura megalandri [magni viri] nostri Calvinii dogmata profitebantur); templis repente clausis, pastoribus sede, immo ducatu pulsus, confessoribus nostræ sanctæ fidei, nomine Calvinianorum et Philippistarum, a Lutheranis æque ac Pontificiis odio habitis, cultus publicus per 70 fere annos interdictus siluit: quapropter sacratissimæ nostræ fidei confessores, ad hæc insuper jure civitatis privati, quotiescunque sacra peragere postulabat religio, ad externos, hujus causa, in Poloniam proficisci tenebantur.

Sperabant quidem, per conventionem, sexto currentis seculi anno, inter Imperatorem et Sueciæ Regem factam, res nostras in melius mutatum iri; verum in hac Lutheranorum tantum, reformatorum e contra, ne verbo quidem facta erat mentio. Et licet circa idem tempus principes nec non status in Europa Protestantes fere omnes, et inter hos inprimis Anna, gloriosissimæ memoriæ, Magnæ Britanniæ Regina, per legatos et intercessionalia, ab Imperatore, (ut ex allato libello luculenter innotescit), officiose peterent, ut nobis, sub titulo Augustanæ Confessioni addictis, in pace dicta Alt-Ranstadiensi, nomine tenus comprehensis, eodem ac communi cum Lutheranis uti liceret jure; verum ne quidem hoc quidquam profuit.

Sub cruce igitur Pontificiorum fidei professæ cultum frustra suspirabant nostri, ad annum usque 1742; quo Deo O. M. placuit preces nostras exaudire, captivitate Babylonica nos emancipare, ac, per Regem nostrum, pristinam libertatem vindicare: quippe qui liberum religionis exercitium non tantum actu tum restituit, sed et dono dedit spatiosam aream, cum adjacente ædificio antiquo; quod ad sacram ædiculam, qualemcunque, primo quidem adaptavimus: at, ob angustos ejus parietes, concionem populi, quæ quotannis facta est numerosior, totam non amplius admittentes, sed magnam partem (præsertim eo tempore quo sacra peragitur cœna) verbi divini auditores foribus arcentes, capacius templum imperitavit exstruendum necessitas; quod quidem, favente divina gratia, et charitate fratrum in Christo in Germania et Batavia dilectissimorum fulti, ad finem fere perduximus.

Verum enimvero, cum Christianorum sit non adeo extus quam intus templa Dei ædificanda curare, ac insuper membra cœtus nostri non solum longe latequa in Silesia dispersi, sæpius sacri indigeant col-

loquii; hinc non solum Secundum instituere Pastorem, sed et plures operarios tam, quorum ad officium verbum Dei promulgare pertineat, quam quibus partim exteræ, partim civium, numerosæ juventutis erudienda traderentur ingenia, advocare necesse fuit. Ast maxime nos sollicitos tenet, quod his alendis nos impares deprehendamus, dum mediis ad perficiendum incepta destituimur.

Facultates ergo dum nobis impendendi sumptus ad solidam et necessariam rei ecclesiasticæ et scholasticæ restaurationem desunt, auxilia sunt petenda ab extraneorum nobiscum in communione fidei existentium, interque eos inprimis Magnæ Britannicæ, et inter hos vestrorum in Scotia, liberalitate; quos quemadmodum novimus defæcata orthodoxia inter reformatas ecclesias clarere, ita et charitate in fratres ejusdem sanctæ fidei participes abundaturos speramus: immo confidimus vos eadem subsidia nobis indulturos esse, quæ quondam sororiis nostris in Lithuania ecclesiis indulsistis, quæque vestris beneficiis sese adhuc dum sertas tectasque stare gloriantur; vosque obsecramus, ut ecclesiæ nostræ recens conditæ, in præsentī synodo generali, quæ Edinburgi habetur, præ cæteris rationem habeatis, atque manus adjutrices nobis porrigere haud dedignemini.

Hanc ob rationem Secundum Pastorem nostrum Dominum Christianum Ludovicum Finne trans mare ad vos mittere duximus, ut ille hæc literas supplices vestræ Venerandæ synodo tradat, atque ore tenus statum nostrum pluribus exponat.

Excipiat, quæsumus, illum benigne, ejusque verbis plenam habeatis fidem; beneque consideretis, vos opem ferre ecclesiæ, quæ per 75 annos fata tristissima perpessa est, et, medios inter cruciatus, fidem vobiscum intemeratam servavit.

Suppetias mittitis ecclesiæ manu Dei mirabili restitutæ, quæ inter Pontificios, velut castellum contra eos, erigitur; et quæ, si semel rite fuerit fundata, non modo multos e tenebris Papismi ad lucem evangelii, per Dei gratiam, revocare poterit; sed etiam vicinis reformatis in Polonia, Hungaria, æque ac Bohemia adhuc suppressis, auxiliatrices manus porriget, et asylum præstabit. Cujus spei non solum jam lætas vidimus primitias; siquidem quædam millia Hussitarum in terris nostris sedem fixerunt, et duos cœtus formarunt, quorum numerosa juvenus in religione et artibus ingenuis in seminario nostro poterit educari. Verum etiam, cum in vicinis regnis Hungaria et Polonia, (ubi, vi et beneficio pactorum, nunc aliqua quidem passim tranquillitate gaudet ecclesia, quæ tamen vario modo a Pontificiis infringitur), semper agitent consilia Pontificii Protestantes opprimendi, ignorantiam inprimis cum juventute communicando, ut sic evangelii inter sic dictos dissentientes obscurant lucem; ita hos necessaria, quibus educationi liberorum consuli potest, subsidia valde exoptare, vos facile judicabitis æquum.

Deus vero faxit, ut omnis gratia in vos exundet, et, in omnibus semper omnem sufficientiam habentes, abundetis in omne opus bonum. Valete. Dabamus in presbyterio Uratislaviensi die 3tio Aprilis 1750. Et subscriptione membrorum illius corroboravimus.

J. LOOS P.

JAGWITZ.

AB ALENCON.

JANNIGKE.

C. L. AB UNFRIED.

V. LOEN."

F. DE NEUFVILLE.

2. *Act and recommendation of the General Assembly for a collection for the Reformed Church of Breslaw, in Silesia, and supporting a school there.—Dated, Edinburgh, May 19, 1750.*

There was presented to the General Assembly of the Church of Scotland, by Mr. Christian-Lewis Finne, one of the ministers of Breslaw, a letter from the Reformed Church at Breslaw, the capital of Silesia, with proper credentials, representing, that, after having for seventy years been deprived of the exercise of their religion, and in a state of persecution, they are now happily restored to their ancient privileges, by the King of Prussia their sovereign, who has given them ground for building a church and school; which will prove comfortable to them, and useful for supporting the reformed religion in that, and the neighbouring countries: and though the King of Prussia has given them leave to make a collection in the churches of his own territories, for building and endowing a church and school, yet that collection has proved deficient, and will not answer the said good purposes; and that the said pious and useful work cannot be carried to perfection, without the assistance of other Protestant Churches; and therefore humbly supplicating such relief as to the Assembly shall seem meet, for the service of a church, which has kept *the faith once delivered to the saints* stedfast and pure, amidst a long continued series of affliction and persecution: A Church! which is surrounded with Popery, and rears up its head as a bulwark against the errors of that idolatrous religion: A Church! which is situated in the capital of an extensive country, a large trading city; and therefore, by the blessing of God, may be of important service to the truth as it is in Jesus, to give a check to Popery, and to bring many souls out of *darkness* to the *light* of the gospel: A Church! which, if once well settled, is likely to be of great use to the neighbouring Protestants in Hungary, Poland, and Bohemia, who are still groaning under the yoke of Popish bondage; as it may serve for a seminary, and city of *refuge* and *defence*: of which things there have been already seen some first-fruits; for that not only several Popish families, and amongst them the family of Count D'Arco, have been converted to the reformed religion, but also above 5000 Hussite Protestants have come over to them from Bohemia, and settled in Silesia, whose children may be instructed in the school at Breslaw, taught the principles of religion, and be brought up to trades; which will be a great addition and strength to the Protestant interest.

The General Assembly, having considered what is above represented, from a charitable and compassionate regard to their distressed brethren, and a pious zeal to support the reformed interest abroad, did, and hereby do recommend a general collection to be made at the doors of all the parish-churches in Scotland, for the said good purposes, upon the third Lord's day of November next; and appoints the money so collected, to be paid to James Mansfield merchant and late Baillie of Edinburgh, or William Hogg,\* also merchant there. And the General Assembly earnestly recommend to all charitable and

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\* This is the person to whom the Assembly, for many years, ordered collections to be remitted. He was a friend of Boston's (see his Life.—Period XI. 1720), and of the clergy generally. He died at an advanced age, on the 22d Dec., 1766.



well-disposed persons to contribute for so good a work : and appoint that this act be read from the pulpits of the several Churches, the Lord's day immediately preceding the above day hereby fixed for making the foresaid collection.

### 3. *Letter of Thanks.*

"Reverendissimis, Excellentissimis, Doctissimisque Viris, Generalis Synodi Nationalis regni Scotiæ Deputatis inclytis, pateant, Edinburgi.

*Excellentissimi, Reverendissimi, Doctissimique Viri, Patres et Fratres, omni pietatis et affectus cultu plurimum colendi :*

Rogaremus veniam præsentis licentiæ, quâ vobis, Viris summè Reverendis et Excellentissimis, literas iteratas denuò transmittimus, nisi de vestra nobis jam abundè constaret Christiana benevolentia, summaque cum animi gratitudine, per Christianum Ludovicum Finne, ad vos delegatum, ministrum nostrum, quem propediem reducem expectamus, certiores facti fuissetus, qua cum hospitalitate non tantùm inter vos exceptus, verùm etiam qua cum benignitate et unanimi consensu, quo denique cum zelo, collectio ei charitativa, pro egena et in cunabulis adhuc vergente ecclesia nostra, per omnes vestras parochias, hoc mense indulsa fuerit.

Gratias itaque quas possumus maximas agimus vobis, Viris summè Reverendis et Excellentissimis : atque, pro favore hoc planè singulari, beneficia hæc nobis et nepotibus nostris non solùm semper altâ mente manebunt reposita, verùm etiam post literas hasce tanquam primitias nostræ gratitudinis, successivè de incrementis nostræ ecclesiæ, eâ quâ decet observantiâ, vobis referre officiosè promittimus.

His mentionem facere omittere non possumus, post exstructionem templi nostri, ad solennem ejus inaugurationem præterito mense Septembri, auspicante divinâ clementiâ, et peractâ gratiarum actione de recuperato inæstimabili religionis exercitio liberrimo, perventum ; et jam inchoato cultu divino in illo, nobis nil magis cordi fore, quàm ut res scholastica, Dei auxilio, et vestris beneficiis, in totum restauretur.

Quam ob rem hoc nostrum pium propositum vobis, Viris summè Reverendis et Excellentissimis, de meliori quantoties commendamus, cùm ad consequendum hunc finem, non sine contractione aëris alieni, perveniri potuerit.

Summum interim Numen implorabimus pro salute sempiterna et felicitate ecclesiæ Scotiæ ; summa cum reverentia permansuri,

*Excellentissimi, Reverendissimi, Doctissimique Viri,*

*Nominum vestrorum cultores devotissimi,*

J. LOOS P.

J. DE NEUFVILLE.

AB ALENCON

JAGWITZ.

AB UNFRIED.

A. F. JANNICKE.

*Urastislaviæ, die 1ma Decembris, 1750."*

### VII.—NOTES ON DISPUTED SETTLEMENTS.

The more important cases of disputed settlements will be found reported at length under the respective years of their occurrence. The following notes relate for the most part to other cases, which excited less general interest, but which are also fitted to throw light on the

principles of the two parties in the Church during the period. Our authorities for the statements here given are the *unpublished* Records of the Assembly and Commission, and the newspapers of the day, especially the *Edinburgh Evening Courant* and *Caledonian Mercury*. The phraseology of the originals has commonly been preserved throughout.

*Maderty, 1739.*—This case gave rise to a keen contest between the Church-courts and the family of Kinnoull—the same family that has prosecuted the case of *Auchterarder*.—Lord Dupplin presented Mr. George Blaikie; the Presbytery and Synod refused to induct. On an appeal to the Commission, (March, 1739,) that body “appointed Mr. Robert Drummond of Auchterarder, to preach at Maderty, and to intimate to the parishioners to meet there ten free days after, in order to taking trial, and inquiring into the inclinations of the heritors, elders, and heads of families, with respect to the presentee’s settlement.”—At the Commission in May, the case was again brought up; and we present the following account of what then occurred, from the columns of Ruddiman’s paper, the *Caledonian Mercury*:—“Robert Hawley, weaver, and John Gray, mason, Commissioners from the parish, sisted themselves as counsel for them. Hawley said that Mr. Blaikie was the more disagreeable, for that, by the tenour of his acceptance of a presentation, he had challenged a particular relation with that parish, in virtue of the presentation *solely*. Also, his conduct when formerly presented to the parish of Kinnaird in their neighbourhood, gave no small umbrage to the sincere and godly; that if he was settled, vast numbers would secede; that though the Commission might conclude he was in a passion from some expressions he had emitted, yet, he assured them of the contrary, and that only a holy zeal for the souls of the suffering people had animated him. He concluded:—‘Now, Moderator, if I have *tripped*, rebuke me at your bar, nor suffer me to be rebuked at the discretion of a new’s-writer, as I was at last Commission.’ Commissioner Gray said, that Mr. Blaikie’s behaviour at the Synod of Perth had occasioned his being rebuked, as he was afterwards in the General Assembly; yea, he had been admonished and rebuked by the Presbytery of Edinburgh, on account of a sermon he preached in the Tron Church *in favours of the stage*. In short, the two Commissioners, though but poor labouring men, acquitted themselves to the admiration of all present by their eloquence, connection, good sense, knowledge of the constitution, forms and discipline, of the Church, advancing nothing without proper quotations. The latter being called upon by the counsel to vouch authority for a certain assertion, his back got up with so holy an indignation at being interrupted, that he gave such a repartee as must have ruffled the patience of any other than the learned gentleman.”

The Record bears that the Commission, “finding that the elders and heads of families of the said parish oppose the presentee’s settlement, agreed to nominate the Moderator (Mr. Bannatyne,) Mr. Jas. Ramsay, Principal Wishart, Professor Lumisden, Messrs. Andrew Dickson, George Logan, and William M’Neight, a committee to meet at four o’clock to confer with parties.” Upon their report, it was the universal opinion that in the present state of things, the Commission could not proceed to Mr. Blaikie’s settlement; but it was agreed “to write a letter to Lord Dupplin, representing the difficul-

ties they found in the case, and entreating his Lordship's indulgence for the relief of the Church in this strait," viz., by waving *hac vice* his right of presentation. "This," says the *Mercury*, "was acquiesced in by Commissioner Gray, for peace sake; but his colleage, who was for doing violence to the presentation at any rate, threw down a shilling and protested for justice, loudly exclaiming against his brother-Commissioner as a betrayer of his trust and the cause of Christ. In short, the animosity was such, that the one took his route by the Queens-ferry, the other by Kinghorn; and, no doubt, their reports to their constituents will differ as widely as their routes."

At the next Commission meeting, (August 9,) an answer was read from Lord Dupplin, bearing "that considering the first accusation given in against Mr Blaikie, upon which all the subsequent proceedings have been founded, and the manner in which the opposition to his settlement has been carried on ever since,—it is impossible for his Lordship to give up Mr. B.'s presentation without weakening, by his Lordship's example, the right of patronages, and of all those to whom they do by law belong. That his Lordship is informed the heritors do almost unanimously concur in favour of the presentee; that notwithstanding the pains taken to create a dislike in the common people to Mr. B.'s person and character, many of them (as the said Noble Lord is very well informed) have privately signified their satisfaction at his being their minister." In the report in the "*Mercury*," his Lordship is farther represented as alleging that "this opposition was mostly from tenants at will, and had been begot by certain means, nor had sufficient pains been taken to reconcile the people to their duty." John Gray, mason, again appeared as a Commissioner from the parish.

"After long reasoning on the difficulties they lay under, straitened on the one hand in that any other but the presentee could not be legally settled, or if the Church exercised her final power to do so, the incumbent could have no stipend; on the other hand, the seeing the parish of Maderty which had been so long destitute of a settled pastor, was in danger of being foundered in faith by the Seceders, &c.—the question at last was put, "Appoint the moderation of a call to Mr. Blaikie," or, "Not"—and it carried "Appoint." The call was ordered to be moderated on the 3d Tuesday of October, and the Presbytery to report to the next Commission.

When the Commission met in November, it was found that the Presbytery had *not* obeyed the injunction. The case was delayed till March, 1740, but we find no mention of it till the Assembly of that year, when the Visitors of the Commission Book reported "that they are certainly informed that Mr. George Blaikie, the presentee to Maderty, has of late received a call to be a minister in America, and is ordained by the Presbytery of Perth, and is soon to go thither." He himself addressed a letter to the Assembly to the same effect, giving up his presentation.

*Bower*, 1739 (see p. 10).—This was a case of *jus devolutum*. Compeared for Sir James Sinclair, patron, and other appellants, Messrs. Archibald Murray and Patrick Haldane, advocates, who alleged that he had appointed Mr. John Corse, son to the late incumbent, within the time limited by law; and it was argued that the presentee had at

least an equal number of legal voters with the other candidates, besides a considerable majority of the christian people: it was said the parish would have been unanimous in their choice, if methods of concussion had not been used. Messrs. Joseph Williamson and James Grahame, advocates, appeared on the other side, and showed, that as the patron had produced no title to justify his right, and was unqualified,—as the presentee had never taken the oaths, nor had his acceptance been intimated to the Presbytery,—they could not sustain the presentation; and the time having elapsed, they behoved to declare the *jus* fallen in their own hands. It was shown that the majority of legal votes was for Mr. Oliphant; that papers had been forged, and wrong dates put to deeds, in order to qualify men for voting; that the christian people who had appeared for Mr. Corse were men of no character—some of them beggars, others noted rogues.—The Assembly sustained Mr. Oliphant's call *by a very great majority*.

*Kingsbarns, 1739 (p. 11).*—Mr. Vilant had been presented, and had obtained a considerable “concurrence,” but a majority gave a call to Mr. Pitcairn. The Commission of 1738 appointed the Presbytery to proceed to settle *Mr. Vilant*. As it was found, however, that the majority were not disposed to comply with that injunction, the minority carried it into effect. The case came for final judgment before the Assembly 1739, Mr. Charles Anstruther being counsel for Mr. Pitcairn's friends; and Messrs. James Grahame, junior, and Archibald Murray, for Mr. Vilant's. The arguments used on the former side were, “that the Commission had exceeded her powers in counteracting the known practice and rule of the Church, which so expressly forbids the intruding of ministers upon parishes against the will of the christian people; that intrusions this way, so contrary to the word of God, were one of the great occasions of Mr. Ebenezer Erskine and his brethren seceding,” &c. *Answered*, “That the Commission could in no case exceed her powers, being empowered to determine in all relative questions finally; yea, if she had tripped in any point, that could never reverse the settlement, however she might be liable to censure, having acted according to her best light; nor had the Commission acted anywise against the rules of the Church, unless by the will of the people were meant their mere will or obstinate will, without assigning a reason; that the laws cited anent intruders were misapplied, the sole intention thereof being to prevent unfit persons being introduced to the ministry, or without passing suitable trials; that, as from the sacred text, no express argument could be adduced for settling vacancies, so the opponents were challenged to mention the Act of Assembly which vested that power in such as they reckoned the christian people? No! this power had been ambulatory, and the Commission had now acted conformably to the laws of the Church, and the laws of the land; that there was such concurrence with the presentee, that, if settled, there was not a man in the parish *worth the King's unlaw* but would be of his audience, &c. Some said they had not expected to hear Mr. Ebenezer Erskine's name within the walls of that house again.—As to the question how far the minority of the Presbytery could proceed to the settlement after the majority had declined proceeding, there were warm debates for and against censure. Some alleged, that upon the majority withdrawing,



they were *functi*, and no longer a Presbytery; others affirmed, that the minority being still a *quorum* were a Presbytery, and that as they acted in obedience to a superior court, and *ministerially*, their proceedings must be regular.—The decision will be seen at p. 11.

*Kinethmont, 1739.*—The Presbytery of Alford sustained a call by certain heritors, elders, and heads of families, to Mr. Theodore Gordon, minister of Cabrach, laying aside a call by other heritors, &c. to Mr. Robert Gillon, probationer. The Synod affirmed the decision, against which an appeal by Mr. George Leith of Blackhall, and others, came before the Commission in May, 1739, along with a protest against the Presbytery for not receiving a petition of Mr. Leith, containing an accusation against one of the voters for Mr. Gordon, as having been guilty of scandal. The Counsel for the Appellants was Mr. Patrick Haldane, for the Respondents, Mr. Archibald Murray. The Commission agreed *nem. con.* to affirm the sentence of the Synod.

*Ceres, 1739-40 (p. 18).*—Competing calls for Messrs. Scott and Loudon came before the May Commission, 1739—the counsel for the former being Messrs. Patrick Haldane and James Grahame, jun.; and for the latter, Messrs. Archibald Murray and Joseph Williamson. An objection was stated against Mr. Loudon, “as having been *assistant to some of the Seceding ministers.*” He judicially acknowledged having once preached at Perth, and once at Orwell, at the invitations of Messrs. Wilson and Mair respectively, with his declaration at the same time that he did not approve of the said ministers’ separation. It was carried by a very great majority, “Sustain the call to Mr. Scott,” against which Mr. Archd. Murray appealed to the Assembly—1st, Because the charge about Mr. Loudon’s preaching for the Seceding ministers was never before the Synod of Fife, as appears by the Synodical Extract; 2d, Because they had taken under consideration Mr. Loudon’s behaviour as to some parts of his trials, which was no part of the cause appealed.” Mr. Gillespie of Strathmiglo, and other members of the Synod, also appealed, because “the Commission had rejected the so very harmonious call, sustained by the great plurality of the Synod of Fife, in opposition to a pretended call by some heritors with a few of the parishioners.” There *dissented* from the judgment of the Commission, Messrs. John Squyre, Forres, and Wm. McNeight, Irvine, *ministers*, and Colonel John Erskine and Albert Munro, *elders.*—The case accordingly came before the Assembly 1740. “It was alleged,” says the *Caledonian Mercury*, “as an objection to Mr. Loudon, that he was not every way fit and sufficient for the ministry, and that he *had a squint-eye to the Seceder brethren.*” Mr. Scott’s call was sustained by a great majority, “from which judgment one minister and one elder dissented—as did a certain tailor in the parish of Ceres, who also offered to speak up and point out the iniquity of the sentence.”

*Culross, 1739.*—This case, which came before the May Commission, presented nothing remarkable. There were two competing calls of heritors, elders, and others—one to Mr. Thomas Turner, Tulliallan, (Archibald Murray, Esq., their counsel,) and another to Mr. Henry

Lindsay, Bothkennar (James Grahame, jun., Esq., counsel). The Synod had preferred the former, and the Commission affirmed the sentence. Mr. Turner, however, declined the call, but soon after accepted one to Stirling.

*Brechin*, 1739.—Competing calls between Mr. John Gellatly, Forgan, and Mr. Wm. Shanks, probationer. The November Commission *unanimously* decided in favour of the latter.

*South Leith*, 1740 (p. 18, 20).—The chief difficulty here was removed by Lord Balmerino,\* the patron, waiving his right in presence of the Assembly, for which, “as he stood near the throne, he was thanked by the Moderator.”

*Tranent*, 1740 (p. 18).—“It has not been known,” says the *Mercury*, “that contests run higher for and against a presentation than on this occasion.” The rival candidates were Mr. John Rogers, assistant to the former minister, Mr. Mutter; and Mr. Charles Cunningham, presented by the Crown. “It was argued that the presentation had been impetrate by *subreption*, *obreption*, or *correction* (not “corruption”), at the solicitation of some election-jobbers in the town of Haddington, without the privity of the parishioners; that there was scarce any concurrence of elders, heritors, or heads of families; that some of the heritors who concurred were *non-residents*; and that one of them was less to be regarded, as he had actually sold and delivered his wife to a neighbour for a guinea, the last fast-day; and that as the Seceding Presbytery had erected a tent in the parish of Tranent for the summer campaign, and taken a house there for winter quarters, the dividing the people by a violent settlement would be construed by the thinking part of mankind, as building with the one hand and pulling down with the other.” It was answered, That the alleged *subreption*, *obreption*, or any *epcion* at all, was all *gratis dictum*; that any want of concurrence was indeed to be charged on the body of eldership, who had by subreption, impetrate, and mendicate subscriptions upon quarter-sheets of paper in every corner of the parish, and afterwards battered these quarter-sheets to one general petition; that one man had subscribed two several times, and even a certain woman for her husband, who, when he came home and learned what was done, had almost worried the wife and retracted: That the gentleman who it was pretended had sold away his wife was a good and virtuous man, and what past on that occasion was no more than a joke over a bottle; and that any danger from the Associate Presbytery was only to be prevented by the speedy settlement of a minister.” It carried, “Proceed to Mr. Cunningham’s settlement,” by a majority of 15. A certain ruling-elder whispered, “that was the d—l’s dozen.”

*Currie*, 1740.—Of this famous case, a short outline has been given at p. 18, 19, along with the remarks of Sir Henry Moncreiff.† We

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\* This was not the unfortunate nobleman who some years after suffered in the cause of the Stuarts. It was his brother, a Senator of the College of Justice.

† Sir Henry, however, is not strictly correct in saying that it was Mr.

shall here give some account of the previous discussion it underwent in the Synod of Lothian and Tweeddale, before whom the case came by appeal and reference. "They first heard the appeal. The papers were long, and expressed a peculiar virulence. The answers of the Presbytery made much use of a pamphlet entitled "A Letter to a Scots Clergyman," to vindicate the principles upon which the Presbytery had proceeded. After many hours were spent in the case, the Appellants chose to fall from their appeal, and the Dissentients withdrew their dissent with this reservation, that it should not preclude them from offering any objection to the Magistrates' right of presentation, or from the liberty of a fair debate. In the afternoon, the reference was read with many long papers relating to the affair, particularly a letter from the Rev. Mr. Mercer, with others from gentlemen in the Synod of Perth. They contained a full vindication of him from the injurious reflexions said to have been cast upon his character. Mr. Robert Dundas appeared to oppose the presentation, and spoke extremely well on that subject. Mr. Joseph Williamson appeared to support the rights of the town, and showed a copy of a charter which conveyed to the city *Rectorium de Currie cum Mansa, Gleba, Terris Ecclesiasticis, Fructibus, Reditibus, &c.*; and, he argued, that though there was no mention of the word *Patronatus*, yet, these words implied all that constituted a patron. He appealed to Lord Stair's authority in proof of the fact, that many noble families in Scotland presented to churches by virtue of grants of a like nature. He said that the Magistrates' right was never disputed till now, and that only five years after they got that charter, they presented Mr. Charters, who, in consequence thereof was settled. But even allowing that said charter did not convey the patronage, yet, there was another a few years after they had presented Mr. Charters, which confirmed to them all the patronages which they had at that time a right to, or were in possession of. He shewed their title good by long and undisputed possession from the Presbytery and Town Council Records. It was indeed true that the Synod had called a presentation in a former case, a *sham presentation*, but the reasons were plain, for the man whom they presented enjoyed a better settlement, and would not accept. But the Synod had never called it a *sham patronage*. He said, that if a minister of Edinburgh should be presented to St. Kilda, it would be a sham presentation, though the patron's right was never doubted.

It was argued on the other side, that these words *cum Mansa, &c.*, could not refer to the Rectory of Currie, but to the Archdeaconry of Lothian, and that the words *kirks* or *patronage* not being in the charter, they could not claim either. Lord Stair's authority, it was alleged, had been incorrectly quoted. With respect to the town's general charter, it was observed that it had no *novodamus*, and was only a confirmation of former titles, but could give rise to no new ones. The Presbytery Records, it was maintained, were against them. The Synod settled Mr. Spark in 1718, in opposition to the

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Mercer, who *first* moved the censure in the Synod on Ebenezer Erskine. The motion was made by Mr. Adam Ferguson of Logie-rait, (father of the celebrated professor,) and supported by Mercer, Mackie, (see p. 325,) Craigie of Glendoick, &c.

Magistrates, from which judgment the latter had never appealed. And for the Town Council Records, they could not be admitted as evidence in their own behalf in any court whatever, nor could much faith be given them in ecclesiastical courts, seeing that in a late translation, they were found to contain many things directly inconsistent with the Presbytery Records. In reference to this part of the pleadings, the *Mercury* says,—“Mr. Dundas delivered a speech from the bar, setting the whole matter as it has been hitherto managed in a clear light; it was writ with so much spirit, and in so genteel a manner, as commanded the utmost attention, and seemed to give the highest satisfaction.”

The first question put was, as to what should be the state of the vote—whether the Synod “should declare that as circumstances now are, they cannot concur in Mr. Mercer’s call, and refer the case to the Assembly”—or “Sustain the call or not.” It carried by a great majority “the second state of the vote.” Upon this, a Dissent was entered by G. Gibson, M. Reid, J. Lundie, J. Matthison, P. and J. Cuming, Andrew Dickson, G. Murray, George Logan, J. Gowdie, M. Simson, Gilbert Hamilton, James Glasgow, John Clunie, James Glen, D. Plenderleath, George Wishart, John Glen, James Burnet, William Orr, and James Bannatyne, *Ministers*; and by the Lord Conservator of Campvere, Baillie William Crookat, Conveners Keir and Syme, Deacon Wight and Mr. John Malcom, *Elders*.

It was by this time past twelve o’clock at night, and the next vote carried unanimously, as all of one way of thinking refused to vote.—The rest (who were 45 in number) voted “*Not sustain.*”

When the case came before the Assembly, it was said by many, that the method taken by the Synod of considering the call before the presentation, was preposterous. It was resolved by a vast plurality of voices to consider the reference first. The town, besides the charter produced before the Synod had found out another dated 1612, including a special grant of the *Ecclesia de Currie*—and, upon this their lawyers founded, as putting their right beyond dispute. The other objections, says the *Courant*, were answered with much solidity and skill. The overture adopted by the Assembly (see p. 18, 19,) was passed by a *very extraordinary majority*. In July, 1740, the Presbytery of Edinburgh, after long enquiry, found, that *Mr. David Moubray* was duly elected minister of Currie.

*Kells, 1740.*—The only facts I have been able to ascertain respecting this case are, that the Commission of May, 1740, remitted to the Presbytery of Kirkcudbright, to appoint the moderation of a *call at large*, not excluding Mr. R. M’Morran; and that the Commission of November, by a very great majority, sustained the call to Mr. Patrick Yorston in preference to that to Mr. Robert Maitland.

*Dingwall, 1740–41* (see p. 24).—This was a very curious case, as illustrating the manner in which Presbyteries, especially in the Highlands (see p. 91, note), were sometimes found to exercise their powers in the settlement of ministers. The Presbytery of Dingwall appointed the moderation of a call at large of a minister to the town and parish of Dingwall, excluding Mr. Murdoch Mackenzie, of Con-  
tin, from being on the leet, *in respect of his great usefulness where he is.*



The Synod of Ross affirmed this judgment, but the Commission of May 1740 reversed it, by a majority of 53 to 39, and ordered Mr. M'Kenzie to be admitted on the leet. At the moderation of a call, Mr. Gilbert Robertson was found to have the concurrence of Sir Robert Munro of Fowlis, and a few other heritors, and one head of a family; while Mr. M'Kenzie's call was signed by a great many heritors, with the concurrence "of the baill other parishioners."—Yet the Presbytery preferred Mr. Robertson, and gave him a Presbyterial call. The November Commission, however, reversed their decision by 30 to 3,—declared their dissatisfaction with the Presbytery, and appointed the Moderator to write them a letter to that effect. It was even proposed to bring them up to be rebuked at the bar of the next Commission. Alexander Gordon of Ardoch dissented, and Albert Munro of Coull, as representative from said Presbytery, protested, and appealed to next Assembly. (The Presbytery craved delay, because none of them had come up, and their lawyer was sick.)—The Assembly 1741 ordered Mr. M'Kenzie's transportation to Dingwall. He was some years after translated to Inverness.

The secret spring of the Presbytery's undue partiality in this matter is, by the *Mercury*, alleged to have been the circumstance of Mr. Robertson having acted "as itinerant tutor to Sir Robert Munro's eldest son." And the opposition of the people of Dingwall to his nominee was, no doubt, very much inflamed by Sir Robert's violent attempts to coerce the town-council in the election of a member for the burghs, which gave rise to a dreadful riot and loss of life.

A complaint was made to the Commission of March 1741 by the parish, stating that there had been a vacancy for four years and upwards; and that from the 1st October, 1740, to the 15th February, 1741, there had been supply only *once*. The Presbytery were exhorted to send supplies more frequently.

*Bowden*, 1741-42 (p. 23).—This parish became vacant in January, 1739, and there being no appearance of harmony among the parishioners towards a comfortable settlement, the then Duke of Roxburgh, patron, and superior of the whole parish, and proprietor of above a half, with consent (it was alleged) of about  $\frac{2}{3}$ ths. of the landed interest, and several of the parishioners presented Mr. James Hume within six months. This was opposed by a body of the feuars of Bowden and Midlem, and others, who wished a moderation at large. The Commission of 1740 ordered the Presbytery to proceed to his settlement, but as they not had light enough to ohtemper the injunction, the case came by cross-appeals before the Assembly, 1741, (p. 23.)

It was argued for the opponents of the presentee, that there was no concurrence, and therefore that no pastoral relation could be formed; that the settlement would create great scandal and promote Secession, &c.; that the Commission had acted after an iniquitous manner in appointing such a settlement, without previously ordering a call (at large) to be moderated, &c. "There appeared," says the *Mercury*, "Walter Heatley, the Miller of Bowden's man, Commissioner for the christian people, who appealed to the Book of Discipline, which he held in his hands, and insisted that nothing should be determined contrary thereto, or to the scriptures of truth. He talked a great deal of

the privileges of his constituents, of natural and inherent right, &c."

On the other side it was said, that the moderation of a call at large, when the parish was in law limited to one person, was a mere farce, and ought not to be insisted on; that such a moderation was in no way competent when a presentee was in the field, and to insist upon it savoured not a little of the practice of the clergy of our neighbouring country, where the Dean and Chapter meet to pray for light and direction in their election (of a bishop), though they know by the *congé d'elire* they are precluded from electing any but the person there named, under the penalty of a *premunire*. It was farther observed, that the Presbytery had not sufficiently laboured to reconcile to the presentee the inclinations of the *Renitents*, who had assigned no reason for their opposition but their positive will and pleasure; that the Commission had been empowered to decide finally, &c.

The Assembly of 1741 ordered Mr. Hume's settlement, but the Presbytery still refused compliance. The Synod then took steps towards it, but an appeal was brought from their judgment to the Assembly, 1742. "Never," says the *Mercury*, "were debates more learnedly or keenly managed in the Assembly-House than on this occasion, for nearly nine hours. It was pled against the settlement that only four persons concurred with Mr. Hume, and that they might as well pretend to fix a pastoral relation between him and the church-walls, as with the parishioners of Bowden; that such a settlement might pass in England, where the incumbent, satisfied with the delivery of the key of the church, the 'tow of the bell,' and a clod of the glebe, sought no other concurrence than the toll of his bell brought him; but, in the Church of Scotland, a suitable concurrence of the congregation was absolutely requisite to complete the incumbent's title; and that the frequent violent settlements thus unduly made had occasioned disorders, separations, &c. And one Reverend Gentleman on that side, with tears in his eyes, said, that the cause of Christ, and his inheritance, suffered at this day from the proceedings of judicatories." *Answered*, "That the concurrence was far more considerable than was alleged\*; that any opposition of the people was not founded in reason, since they had not objected to Mr. Hume's capacity, life, or doctrine, but purely that he had accepted a presentation; that this instance of disobedience in the Presbytery of Selkirk tended to unhinge all order and subordination of judicatories, and even totally to subvert the constitution; that in all government, civil or ecclesiastical, there must be a *dernier ressort*, to prevent anarchy and confusion,—and that the last Assembly having appointed the Synod to see their orders executed, the Synod's sentence ought to be the *finis lituum*."

The vote of this Assembly went very close. For affirming the Synod's sentence, settling Mr. Hume, 57—"Not" 56.—Principal

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\* The concurrence was said to be as follows:—The Duke of Roxburgh, Sir William Ker of Greenhead, Ker of Cavers, Lady Dowager of Cavers, R. Elliott of Middlemill, Ker of Kippielaw, R. Ker, advocate, Dr. Andw. Plummer of Middlestead, George Douglas, Friarshaw, Charles Baxter, Prieston, Charles Wilkison, Huntlywood—besides several small feuars, and eight of the principal tenants. The valued rent of the feuars (opposers) was said to be about  $\frac{1}{3}$  of the whole valuation.

Wishart entered a dissent, which was ultimately adhered to by 20 other ministers (including Messrs. Wm. Gusthart, Henry Lindsay, Thomas Rankine, John Glen, Wm. Robertson, D. Blair), and 5 elders, *viz.*, Colonel Erskine, Albert Munro, James Burnett, Alexander Boswell, George Baillie.

"In the course of the above debates it had been strongly urged, and seemingly acquiesced in, that the Synod had been irregular in some steps of the settlement—wherefore it was proposed, that even if their sentence was affirmed, they should stand up to be rebuked. (They had refused to admit as members of Synod certain elders, newly elected by their respective Sessions to represent them in Presbytery and Synod.)—The Very Reverend Moderator (Principal Tullidolph) accordingly rebuked them in obedience to the court, in such a tender and brotherly manner, as made some conclude he would not have scrupled to sign their sentence as Moderator of the Synod."

*Auchterderran, 1741.*—This is rather an important case, as shewing the mind of the Church at this period as to who were *legal electors*.—Mr. Boswell, of Balmuto, had yielded his right of patronage to the majority of legal electors, and allowed the parish a free choice. This occasioned two competing calls—one to the Rev. Robert Douglas of Portmoak, the other to Mr. Matthew Mitchell, Preacher. It appeared beyond dispute that Mr. Mitchell had a majority of the conjunct body of heritors and elders—and, therefore, the patron gave his consent to his settlement. On the other side, the callers of Mr. Douglas were nearly equal as to heritors and elders, but *had a vast majority of heads of families*.—The Court was pleased with the generous conduct of the patron. It found that the Act 1690 was the only rule of judging, and therefore *unanimously* decided in favour of the callers of Mr. Mitchell.

*Liberton, 1741 (p. 24).*—*Case of an assistant and successor.* Mr. Samuel Semple, being aged and incapable of active duty, had, jointly with the majority of his heritors, and of the whole parish, signified his inclination for Mr. John Jardine to be his ordained assistant, and to have the survivancy after his death. In consequence of this a sign-manual was obtained from the Crown as patron, consenting to the settlement. But it was held by many heritors, that the patron could not interpose unless there was a vacancy; that his right could not take place till the actual decease or demission of Mr. Semple; and that, therefore, a consent of such a nature was to be regarded as against law, and not binding, as it could not oblige any succeeding patron to ratify such consent. *It was answered,* That it had been the custom of the Church of Scotland, since the reformation, to allow such settlements, and that custom became through long usage a law; that the objections were not valid, because all the writers on the Canon-law expressly declared, that a patron might present either when a church was actually vacant, or when the incumbent was unable to discharge the duties. The Presbytery had appointed the moderation of a call to Mr. Jardine—the Synod had affirmed their judgment, which the Assembly now also did unanimously.

*Carnbee, 1741-42.*—This was a long and tedious case, the outline

of which, at the different stages, will be seen at pp. 20, 27. Mr. John Nairn, the Earl of Kelly's first presentee, was settled assistant at Anstruther Wester. His Lordship then presented Mr. Joseph Pitcairn. The Presbytery still wished to moderate in a call *at large*, but they were hindered by a sist from the Commission of May, 1741. The case came up by reference at the Commission in August. "Compeared for the patron, and certain heritors and elders, Mr. Joseph Williamson, advocate, who insisted for a limited moderation to Mr. Pitcairn. Compeared two elders, by commission, from three heritors and seven elders, who craved that an unlimited moderation might be appointed. The Commission remit to the Presbytery to moderate in a call at large, but this without prejudice to the right of the patron, or any objections to the subsistence thereof as accords, it being the meaning of the Commission not to give any judgment on the patron's right, but to leave that matter entire. The Presbytery to report diligence to the Commission in November, and the Commission appoint the Moderator to write a letter to the said Earl of Kelly, signifying their great regard to his Lordship's inclinations in this affair."

The Synod of Fife sustained a call to Mr. John Storer, the Earl of Kelly appealing to the November Commission. The Synod then objected that the Commission had no jurisdiction to judge of this appeal, the only thing referred to it being the appeal of the Earl of Kelly against laying aside his presentation. "The Commission refer this to the Assembly, but in regard the Earl of Kelly's appeal to the Assembly, concerning his right of presenting to the vacancy of Carnbee, is regularly before this Commission, and because his presentee (Nairn) is now otherwise provided for, the Commission did not think it necessary to determine the abstract question, but leaveth it to next Assembly." That Assembly, without a vote, preferred Pitcairn's call.\*

*Fearn*, 1741 (p. 36).—There was considerable delay in the settlement of this parish, which was partly owing to a libel that was raised against one of the candidates, Mr. Donald Fraser, and was finally disposed of by the Commission of May 1741, by a sentence of general acquittal. The Commission, at the same time, appointed a new moderation of a call for Fearn, and instructed the Presbytery "to allow any minister or probationer to be upon the leet, who shall be preferred by such as have interest in the parish." The two candidates were Mr. Fraser and Mr. Donald Ross, of Lochbroom. The Presbytery sustained the call to the latter, as did the Commission of November 1741, "by a scrimp majority."—It appeared, however, that the Presbytery of Tain had inhibited and discharged Mr. Fraser from preaching at Fearn, though the Synod of Ross had appointed him. The Commission advised the Synod to sist the Presbytery to next General Assembly, to answer for their conduct—but we hear nothing more of the matter.

*Canongate*, 1742 (p. 27).—Competing calls to Mr. John Ferrier of Largo, and Mr. Robert Walker of Straiton, afterwards of the High

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\* The Earl of Kelly sent a letter to the Assembly, signifying his earnest wish to have Mr. Pitcairn settled.



Church, Edinburgh.—The Assembly 1742 unanimously sustained the call to the former.

*Falkirk*, 1742 (p. 27).—The Earl of Kilmarnock, Lord Napier, and other heritors, call Mr. Muirhead of Glassford, but the Assembly sustain the call to Mr. Ferrier of Largo (see the last article).

*Dalziel*, 1742 (p. 27).—On Dr. Macqueen's translation to Stirling, the patron, heritors, and others, gave a very harmonious call to Mr. Joseph Yair, minister of the Scots Church at Campvere, in Holland. The call was sustained, and found orderly proceeded in by the Presbytery of Hamilton, but the said Presbytery refused to grant their concurrence therewith. The Synod referred the case to the Assembly 1742, who concurred with the call, and ordered it to be laid before the Presbytery of Edinburgh, with a view to his transportation.—I rather think Mr. Yair continued in Holland; for, in the year 1771, there appeared a translation of *Chauffepié's Life of Servetus*, by a person of the same name, settled at Campvere. He had formerly been minister of Carriden, in Linlithgowshire.

*Bervie*, 1742 (p. 27).—There were here *two* presentations, one to Mr. Dow, from the *Crown* (supported by a great body of the people); the other to Mr. Mollison, from *Viscount Arbuthnot*—claiming the right of patronage as derived from the Carmelite Friars, with which presentation there concurred a majority of heritors, elders, town-councillors, and body of the people. After long debates it carried for the former.

*Manor*, 1742 (p. 35).—The call in this case was subscribed by only *three* persons.

*Baldernock*, 1742-43 (p. 43).—A presentation was issued by the Crown to Mr. John Colquhoun, and was duly accepted by him.—But while the presentee was abroad, some men had obliged themselves, by two distinct bonds, to give all opposition in their power to his settlement, and that the minority of the said subscribers should go in with the sentiments of the majority in the election of a minister;—which combination papers had been industriously handed about, and subscribed by the opposers of the presentee, and were at length produced before the Presbytery of Dumbarton, and by them cancelled, though extracts of them were demanded. There was, on the other hand, a call to Mr. Wm. Boyd, said to be from a considerable majority of heritors, all the elders, and a great majority of heads of families. The Synod had found that they could not sustain the call to Mr. Colquhoun with so small a concurrence. His appeal came before the November Commission, 1742. Mr. Joseph Williamson, counsel for the respondents, took an objection to the constitution of the court, which was overruled; and, on proceeding to the merits, the appointment of Mr. Colquhoun's settlement was carried by a great majority. Mr. Williamson appealed to the Assembly, for this among other reasons, that the sentence was founded chiefly upon certain writings which had been destroyed in consequence of an appointment of the Synod of Glasgow and Ayr, against which there had been no

appeal. Mr. Robert Riccaltoun, Hobkirk, dissented.—It was found at the Commission in March 1743, that the Presbytery had not obeyed the appointment. The case was referred to the Assembly according to the Act 1736. The Assembly refused to hear the complainers against the Commission's sentence, except as to any nullities alleged against it, and dismissed the complaint without a vote. The rest of the decision will be found at p. 43.—When Mr. Colquhoun was on his trials for ordination, a libel was got up against him, and prosecuted with great keenness, but the charges were found to be groundless.

*Moffat*, 1742.—The Marquis of Annandale, patron, and other heritors, elders, and others, called Mr. John Nimmo of Johnston. Certain other heritors, elders, &c., called Mr. John Irvine of Wamphray. The Synod finding a great many difficulties did not judge it for the interests of religion, to come to an immediate decision, and referred it to the Commission, who, in August 1742, sustained Mr. Nimmo's call, by a very great majority. Yet the Commission of March 1743 refused to transport him; and the person next presented seems to have been Mr. Edward Johnston, whose trial for libel will be found at p. 89. He was ultimately admitted minister, and published various sermons preached on public occasions.

*Tannadice*, 1743 (p. 41).—The New College of St. Andrews being patrons (and also titulars of the tithes), waived their privilege *pro hac vice*. The Presbytery settled Mr. Weath, in opposition to Mr. Young, though "supported by a great body of all ranks of the parishioners,"\* and in the face of several appeals. Principal Haddow appeared for the College, who favoured Mr. Young. The Assembly's sentence (passed after an eight hour's debate) will be seen at p. 41.

*Lochbroom*, 1743.—The Earl of Cromarty, &c., (see p. 41) represented in the petition, "that in December last (1742), the Presbytery of Gairloch thought fit to appoint the moderation of a call, not to a certain day, but betwixt and a certain time now past, and in order to carry their design, they hurried on the moderation certain days before they acquainted the patron and principal heritor of the time of meeting; and farther, they did not intimate the time of moderation ten free days before, but employed one Mr. Rod. M'Kenzie, who had been a minister somewhere in England, to preach, and moderated a call the Wednesday after and sustained it, though few of the parish, which is very extensive, had access to know any thing about it."—They had also refused extracts of their proceedings. The decision will be found at p. 41.

*Cluny*, 1743 (p. 42).—A majority of heritors and elders seem to have been for Mr. Michie. The Assembly's decision was passed *nem. con.* One objection made to Mr. Mackenzie was the alleged irregularity of his license, for the record bears that "next day he produced his license and testimonials of his good behaviour, which the Assem-

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\* Certain elders were deposed, chiefly for soliciting votes on a Sunday for Mr. Young. The Commission of May 1743 reponed them.

bly referred to the committee for overtures, who found that he was regularly licensed."

Kinnell, 1743 (p. 43).—Mr. Murison's presentation was supported by the Earl of Panmure, and certain parishioners, but the great majority of them were for Mr. Robert Garden, probationer. The dissentients from the Assembly's judgment (sustaining the presentation) were Lachlan Macintosh, Al. Webster, John Currie, John Ballingall, Robt. Dunbar, John M'Dermit, Wm. Moncrieff, Wm. Coats, Thos. Gillespie, Robert Stark, James Innes (Merton), *ministers*; and Albert Munro of Coull, and Gordon of Ardoch, *elders*.

Roberton, 1743-1744.—Here was a long-protracted struggle between the patron and the church-courts, where the latter had at length to succumb. The Duke of Douglas presented Mr. William Nimmo. The Presbytery would not sustain the call, and the case went to the Synod. That body "found that they could not concur with the call as it now stands, but allowed the Presbytery of Lanark to use their best endeavours with all parties concerned, of rendering the settlement of the parish comfortable, either by softening the Duke of Douglas to make that parish easy, or essaying again to bring more of that people to concur with the call." At the Commission of May, 1743, it was proposed to delay the case till August, but it carried "Proceed:" Then the question being put, "Sustain the call or not"—it carried "Not," and the Commission laid aside the call. But Mr. Andrew Pringle, for the Duke of Douglas, protested, that this sentence do not prejudice his Grace's right of patronage. On the Assembly, 1744, finding that the *jus devolutum* had fallen to the Presbytery (see p. 65), Mr. Archd. Murray, the Duke's counsel, craved leave to protest, in name of the said Duke, that he did not acquiesce in that sentence, and that the same hurt not his civil interest.

A call at large being now moderated, there was one in favour of Mr. John Rodger, but the Duke had influence enough to get one also in favour of his presentee, Mr. Nimmo, and both calls came before the Assembly 1745, whose decision (delaying the case till next year) will be found at p. 71. When the Assembly 1746 came round, circumstances were not found to be materially altered. There appeared for Mr. Rodger's friends, Mr. Joseph Williamson, and for the Duke of Douglas and Mr. Nimmo's friends, Messrs. Arch. Murray, Alexander Lockhart and Andrew Pringle. The former represented in their petition, "that the parish has now been vacant for many years, occasioned at first by the embarrassment of a presentation in favour of Mr. William Nimmo, sometime schoolmaster at Lanark; but as the patron's right was liable to just objections, as there was no regular acceptance nor the presentee qualified according to law, it was at last determined by the last resort, not to sustain the call and presentation; that the Assembly, 1744, appointed the Presbytery to proceed to a moderation at large, having *unanimously* found the *jus devolutum* to have fallen into the Presbytery's hands. That at the moderation, a vast majority of all concerned appeared for Mr. Rodger, but his Grace the Duke of Douglas, the alleged patron, protested that he should not be liable in payment of stipend if any other but Mr. Nimmo was settled. Since last year, his Grace has taken no methods to re-

lieve the parish, though some opportunities occurred." Nimmo's call was sustained *without a vote* (see p. 90.)

*Kirkcowan, 1744.*—The leading facts will be seen at p. 63, 64. "It was alleged that Mr. Vans' right of patronage is at least very doubtful, and though his right were unquestionably good otherwise, yet, in this instance, his exercising that right is illegal, in respect, he did not qualify at or before granting the presentation, in terms of law." The Assembly's sentence passed without a vote.

*Rain, 1744 (p. 64).*—There was a presentation by the crown to Mr. Mair of Forbes. The Presbytery found that as Mr. Mair was a settled minister, and as no other person had been presented within the six months since the vacancy, the *jus devolutum* did take place by virtue of the Act 1719,\* against which sentence Mr. Petrie, Advocate in Aberdeen, appealed in name of the crown to the Synod. In the mean time, the Presbytery moderated and sustained a call signed by a majority of heritors, an equality of the elders, and a majority of the people in favour of Mr. James Macwilliam—which was also appealed against. The Synod took up both appeals at once, deciding the case *in cumulo*, and reversed the sentence of the Presbytery. When it came before the Assembly, there appeared along with the Presbytery Mr. Joseph Williamson as their counsel,—also, Lord Drummorie, an heritor of the parish. The Assembly without a vote affirmed the Synod's sentence.

*Parton, 1744 (p. 65).*—This case was referred to the Commission, who disposed of it in May, 1744, by *reversing* the judgments of the Presbytery and Synod, and preferring the call to Mr. Crockat. Mr. Clark's call was merely *notorial*.

*Lochbroom, 1744.*—As the Gairloch Presbytery did not obey the injunctions of the Assembly (as given in p. 62,) the Earl of Cromarty complained to the November Commission, who appointed the ministers of the Presbyteries of Tain and Dingwall, or any five of them to meet at Lochearn on the first Wednesday of March, (1745,) and begin to take steps towards Mr. Robertson's settlement.

*Dundee, 1744-45.* The Presbytery had, *nem. con.* sustained a call of the magistrates, heritors and elders, to Mr. John Gellatly of Forgan. Others of the town had, before a notary public, signed a call to Mr. John Ballingall of Cupar-Fife. The Commission of March, 1745, found itself competent to take up the case and sustained Mr. Gellatly's call; the supporters of the other did not even go into the merits.

*South Uist, 1745-46.*—The outline of this curious case will be seen at pp. 73, 91. The person who appeared for the Presbytery at the Assembly 1745, was Mr. William M'Leod, minister of Barra.

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\* The Presbytery of Garioch were not singular in giving so *liberal* an interpretation to the Act 5, Geo. I. 28. Indeed, many good men in those days seemed to view it as almost equivalent to the abolition of patronage.



There was read, a letter from Lady Clanranald, and some other Protestants in South Uist complaining of the Presbytery's conduct; as also a letter from the Presbytery describing the situation of the said parish, its extent and number of Papists there, with the necessity of having a well qualified person skilled in the Popish controversies settled therein, "which they say Mr. Neil M'Leod is not." The Presbytery having been appointed to take him on trials, reported to the November Commission that they had done so and found him unqualified, but recommended him to be employed in some other place. The case came again before the Commission in March, (1746,) by complaint from Lady Clanranald. A doubt was expressed by the Commission, whether the Presbytery of Skye had got instruction of their appointment to meet with that of Uist; a letter was ordered to be written to them to ascertain that fact, and the case referred to next Assembly. The final disposal of the case there, will be seen at p. 91.

*Cortachy*, 1746 (p. 88).—This was another singular case. It arose out of the Rebellion. "The Earl of Airlie did not use his right, but suffered the *jus devolutum*. His Lordship and others possessed of the whole landed interest in property or superiority, signified to the Presbytery their wish for Mr. Wm. Brown (a young man who had lately distinguished himself for his loyalty to the government). There was opposition from several elders and heads of families, who had petitioned in favour of Mr. Alexander Badenoch, schoolmaster at Blairgowrie; yet the Presbytery, as it was notorious that the bulk of these were disaffected, and concerned in the late unnatural rebellion, thought it their duty agreeable to the rule laid down in the Directory 1649, *to provide the parish with a minister themselves*, and, accordingly gave their Presbyterial call and presentation to Mr. Brown. The Synod reversed this judgment. When the case came before the Assembly 1746, Mr. Joseph Williamson appeared for Mr. Brown, and Mr. Archibald Murray for his opponents. It was said that the opposition to Mr. B.'s settlement was principally owing "to his remarkable appearance for the government's service in that part of the country." The Assembly's sentence (p. 88) was *unanimous*.

Mr. Brown afterwards went to Holland as minister of the English Church at Utrecht, whence, in 1757, he was translated to the Professorship of Ecclesiastical History in the University of St. Andrews, but not till after a harrassing process affecting his moral character, which ended in his acquittal. He was father of the late *Principal Brown* of Aberdeen.

*Balmaclellan*, 1747\* (p. 100, 101).—The charge against Mr. Mackie was "his being guilty of indecent behaviour with one Margaret M'Dowall." For the Appellants, compeared Mr. Joseph Williamson, for the Respondents, Messrs. Archd. Murray and Alex. Lockhart. "The Moderator signified from the chair, how much the

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\* Under date of this year, the reader will find a variety of "Notes on disputed settlements" from *Mr. Whigham's* evidence before the Commons' Committee on Patronage.

Assembly were dissatisfied with the libellers and appellants for their injurious treatment of Mr. Mackie and their litigious behaviour."

*Goran, 1747* (pp. 102, 106).—There appeared for the University, Mr. Joseph Williamson, with Professors Leechman and Dunlop, and Sir John Maxwell, Rector of the University, and an heritor in the parish. For the Respondents, Messrs. Archd. Murray and Alex. Lockhart. The Commission of November gave out to Thom his ordination trials; and Mr. Currie of East Monkland, Moderator of the Synod being present, the appointment of the ordination (p. 106) was signified to him that he might summon the Synod.

*Bedrule, 1747*, (p. 102).—There were competing calls—one to Mr. Geo. Dickson (supported by the Marquis of Lothian); the other to Mr. Archd. Wallace. The Commission of August, 1747, preferred the former.

*Abbey Parish, Paisley, 1748* (p. 113).—This case was remarkable for the rejection of the presentee, very much on account of suspicions of *Jacobitism*, and also for a civil action raised by the patron, but apparently not persisted in, similar to those of Culross and Lanark.

"Soon after the second minister's charge in the Abbey Church became vacant, a presentation was expedited in favour of Mr. Campbell. His call was moderated, and signed by 29 heritors and elders—to whom 10 heritors afterwards acceded. The Synod unanimously found, that considering the objections against the validity of the presentation and call, they could not appoint the Presbytery to proceed to Mr. C.'s settlement." At the Assembly, there appeared for the Appellants, Messrs. Alex. Lockhart and Joseph Williamson; for the Respondents, Lord Ross and others, with Messrs. Archd. Murray and James Livingston as their counsel; for the Synod and Presbytery, Mr. Robert Paton of Renfrew.

In refutation of the charge of disloyalty, Mr. Campbell appealed to the evidence of his schoolmaster! "There was read (so the record gravely narrates) a letter from Mr. Andrew Cornfute, late assistant in the grammar-school at Perth, now schoolmaster at Dunkeld, addressed to Mr. John Nisbet, writer in Edinburgh, containing an account of the said Mr. Campbell's regular conduct and good behaviour while a scholar in the school of Perth, *when no signs of disloyalty or disaffection to the government appeared, nor was he then in the least suspected thereof*. There was also read and given in by a member an extract from the Records of the Presbytery of Dalkeith, containing their inquiry into a certain fact reported, touching Mr. Campbell's behaviour during the late rebellion, and while he was upon trials before that Presbytery, which they found to be altogether in his justification." Comp. p. 296.

In consequence of the Assembly's sentence, rejecting his call (p. 113), there was produced, at the November Commission, a copy of a *summons* raised at the instance of Hugh Crawford, W.S., as patron of the parish, against the Presbytery of Paisley, to appear before the Court of Session as defenders in a *declarator* of his right of patronage, and other conclusions therein mentioned, respecting the stipend of the second minister, alleged to be at his disposal as patron—by which sum-

mons it is intended to interrupt the Presbytery from moderating in a call at large, notwithstanding the express appointment of last Assembly. The Commission, judging the same to be matter of public concern, appointed the Procurator and Agent to appear in defence of the Presbytery's right.—The Assembly Record contains no farther reference to this action, which appears to have been dropt.

*Cockburnspath*, 1748 (p. 114).—This case presents the appearance of the rejection of a Crown-presentation by the Assembly; but it strikes me, that either the patronage must have been doubtful, or the *jus* had devolved on the Presbytery. A petition was presented from his Majesty's advocate, and from certain heritors and others, callers of Mr. Geo. Baillie, stating that he had received a presentation from the Crown, with which the most considerable heritors of the parish concurred,—that notwithstanding the Presbytery did first appoint a moderation at large, and then sustain a call to Mr. Spence. The counsel for the appellants were Messrs. Archd. Murray and Charles Hamilton Gordon; for the respondents, Mr. Joseph Williamson.—Mr. Spence's call was sustained *by a very great majority*.

*Culross*, 1748–51.—There is nothing material to be added to the full account we have given of this case at pp. 133–141. At the Assembly of 1748, there appeared Mr. Cochran, the patron, with Messrs. Archd. Murray and Charles Hamilton Gordon, as his counsel; and for the respondents, Mr. Henry Hardy, of Culross, with Mr. Joseph Williamson, as counsel. The Assembly's decision was *unanimous*.

The following is the statement of the procedure of the Assembly 1749, and its Commission, extracted from the written Records:—“The Assembly agreed to continue the appointment of the committee (to converse with Mr. Cochran, see p. 137), and empower the Commission to receive the Report, and to take it in and judge of the case or not, as they shall find reasonable.” The Commission did not enter on the case until March 1750; and from their Record it appears that “the Committee for Bills had found that the presentation by Mr. Cochran to Mr. Trotter, with the call to him, on which Mr. Cochran founded his petition, being both the same that were before the General Assembly 1748, when judgment was then past, it was incompetent for the petitioner thereafter to insist thereon in a process before the Presbytery or Synod—for which reason the Committee had refused to transmit the petition.—The Commission agreed to waive the consideration of the question, how far the Committee for Bills of the last Assembly did right or wrong in refusing to transmit Mr. Cochran's petition; and having considered the merits of the case, and reasoned thereon at full length, the Commission did *unanimously* affirm the sentences of the Presbytery and Synod, in moderating and sustaining a call to Mr. Stoddart.”—To the notice of Mr. Stoddart at p. 141, it may be here added that he died at Kirkintilloch, on the 21st December, 1773.

*Lanark*, 1749—1752.—To the ample account of the case at p. 169, *et seqq.* we add the following particulars, gleaned from various sources:—At the Assembly 1749, there appeared for the town of

Lanark, and other appellants, Mr. Joseph Williamson; for the respondents (who were Lockhart of Lee, and other heritors, &c., in the parish), Mr. Archd. Murray; for the Presbytery and Synod, Principal Campbell of Glasgow, and others, to defend the sentence. There was also produced a Commission from Mr. Wm. Forbes, as agent for the Crown, and deputed for that effect by his Majesty's advocate to one Mr. Wm. Wilson, to appear to protect the presentation granted by his Majesty to Mr. Gray.—The petition of the magistrates, town-councillors, some heritors, elders, and others, bore, "that the town's charters bear a right of presentation to the altarages and preaching-places within the royalty where the church stands—a right prior to that produced by the Laird of Lee. They had insisted before the Presbytery that he should produce the original grant and progress in his person, but the Presbytery, *Imo*, Found the demand not competent; and without calling for a progress, *2do*, found for Lee; *3tio*, Rejected Gray's presentation from the town, and his letter of acceptance; *4to*, Delayed to give judgment on the presentation *from the Crown* to Gray; *5to*, Refused to moderate a call to him, though petitioned for by almost the whole parish." They also complained that the Synod had not only affirmed the Presbytery's sentence, but refused to enter upon the consideration of a memorial for the Crown. The Presbytery had found "that the right produced by the Laird of Lee appeared to be the preferable right, and that the right of presentation is in his person; and that the clauses in the charter of the town of Lanark, pointed out to them, do not constitute any right of patronage of the parish church of Lanark."—The Assembly's decision will be seen at p. 155.

At the Assembly 1750, where the *ecclesiastical part* of the case was finally disposed of, there appeared for the appellants, Mr. Joseph Williamson; for the respondents, Baillie of Jerviswood, heritor, Robert Dundas, heritor and elder of said parish, and with them Messrs. Charles Hamilton Gordon and Robert M'Queen (afterwards Lord Braxfield), as their counsel. The complaint of the appellants was, that "though a great majority of all ranks in the parish gave their votes for the Crown's presentee, yet the Presbytery sustained the call to Mr. Dick." The Assembly affirmed the sentences of the Presbytery—140 votes to 20 (see p. 170). At the meeting of the Commission, in November 1750, a report was given in of Mr. Dick's ordination, "but from what has happened since the ordination, it appears that he cannot have access to the peaceable exercise of his ministry." And a committee was appointed to wait on the Lord Advocate and the Lord Justice Clerk, to report the sense the Commission have of the necessity of the civil powers interposing in supporting the ecclesiastical judicatories in the execution of their sentences, and to beg their Lordships to fix upon some effectual measures for securing access to the church and manse of Lanark, to the Rev. Mr. Dick, lately ordained minister of said parish. Their Lordships undertook to do so.

*Methven*, 1749-50.—The presentee here was Mr. Oswald, then minister of Dunnet, in Caithness,—better known afterwards as the author of the "Appeal to Common Sense." The first decision of the Presbytery, which was appealed to the Assembly 1749, was "to delay



their decision till next meeting, that the parish might have more time to deliberate in their conduct." The counsel for the patron, &c., were Messrs. Archd. Murray and Joseph Williamson; and for the respondents, Mr. James Livingston.—The Assembly's sentence will be seen at p. 155.

After the moderation of a call the Presbytery refused to sustain it, and the case came before the Commission in November, when the call was sustained by a great majority, the only opposition (it was alleged) being by one heritor and some elders.

The Presbytery, however, delayed to give effect to the Commission's sentence; and, on the 28th February (1750), a vote was stated, "Proceed to execute the Commission's sentence," or "Report the case to next Assembly, with reasons for not proceeding," and it carried, "Report."—The case was brought by appeal before the Commission of March 1750, who concurred with the call to Mr. Oswald, and authorised the callers to prosecute the same. The decision of the Assembly 1750 will be found at p. 168.

At the Commission of November 1750, Mr. John Warden, one of the ministers of Perth, attended and represented the difficulties the Presbytery were under with respect to the settlement. A Dissent had been entered into by Mr. Archibald Stevenson, St. Madoes, and adhered to by Mr. Andrew Gray, Abernethy, from the Presbytery's resolution, finding difficulties. Nine ministers and nine elders of the Presbytery declined having any hand in the settlement, and requested the Commission to take it into their own hands. The first question was, whether it should be by the Commission or Presbytery, and it carried "The Commission" by a great majority. The next question was, whether by the Commission in Edinburgh, or at Methven? and it carried the latter. A committee to settle Mr. Oswald was appointed, consisting of 12 ministers and 2 elders, (3 to be a quorum,) and "if by the rigour of the season, or any other accident, they were prevented from meeting on the day appointed (Dec. 12,) they were to meet on any other day they themselves should fix. (Comp. p. 185.) They gave in their Report at the Commission, March 1751, stating that there had met the following persons, viz., Messrs. Alexander Maclaggan, Little Dunkeld; David Scott, Auchterhouse; Henry Spence, Wemyss; and Duncan Macfarlan, Drymen, *all ministers*. That they had elected Mr. Maclaggan, moderator, and Mr. Macfarlan, clerk; and that the former preached from Acts xx. 24, and admitted Mr. Oswald.

The same Commission called the ministers of the Perth Presbytery to account for their conduct. Mr. John Moncrieff represented that he did not consider himself as under any appointment to concur in the execution of the sentence, as he was a party, being an heritor in the parish, and had never acted as a judge. The Commission agreed to dismiss him. The question was then put as to the case of the others,—“Proceed,” or “Refer to the Assembly,” and it carried by a considerable majority, “Proceed.” They were then *rebuked* (p. 185), but the Commission “resolved to represent to the Assembly, that though they had, considering all the circumstances, dismissed them with a rebuke, yet they looked upon the general case of disobedience of Presbyteries to the orders of the supreme court, to be of the utmost consequence to be considered by the Assembly, that

they may take some proper and effectual method of remedying this evil."

*Kennoway*, 1749-50 (p. 156).—The Presbytery pretended that the young man (Neil Beton) was not qualified as the law directs, and that he had the *Highland language*;—"although," said his counsel, "a certificate of his being qualified before accepting the presentation was produced, and there was no evidence that he understood Irish, but quite the reverse, having left the Highlands when a boy, and he had no opportunity to improve in that language since." His counsel were Messrs. Williamson and Murray. The Commission of November, 1749, sustained his call by a very great majority. The Presbytery, however, still delaying, it came again before the Commission in March, 1750. Mr. Beton's petition represented that "his presentation had been concurred with by almost the whole principal heritors, some of the elders, and a good many heads of families. An opposition was begun by one or two of the elders, fostered by some petty heritors and feuars in a neighbouring parish. When at last a call was moderated in, all the principal heritors, some elders, and above fifty heads of families joined in it." The Commission renewed the appointment to the Presbytery to proceed to his trials and settlement. The Assembly, 1750, gave a similar injunction (see p. 181,) which seems to have been at length obeyed.

*Rescobie*, 1749 (p. 156). The counsel for the appellants were Messrs. Archibald Murray and James Dundas; for the respondents (the Earl of Strathmore, patron, and others), Joseph Williamson and Andrew Pringle. The appellants alleged that the presentation to Mr. Trail was granted ten months after the vacancy, and that there was no concurrence except one episcopal tenant and his servant—whereas Mr. Hunter's call was harmonious.

*Tarbat*, 1750.—This case was referred to the Commission (p. 182), who, in May, 1750, affirmed the Synod's sentence.

*Alloa*, 1750-51.—The Presbytery of Stirling had rejected the calls, both to Syme and Skirvan. The Commission of May, 1750 (see p. 182), preferred the former; but when the Presbytery attempted to serve his edict the riotous proceedings ensued, which are detailed at p. 185 note. The Presbytery reported to the November Commission, that "in obedience to the sentence of the Presbytery, Mr. Warden did proceed towards serving of the edict, till, at the end of the town of Alloa, he, attended by some of the heritors, elders and parishioners, was set upon by a lawless crew of persons, was forcibly made prisoner by the said mob, and many of his attendants beat and bruised to the effusion of their blood, and the edict by force taken from him, &c.—that since that time, certain circumstances have occurred in the neighbourhood and in the parish, which make it *absolutely inconvenient* for the Presbytery to proceed." The question was put, "Proceed, or Not;" it carried by a great majority "Proceed." Then the Commission appointed a committee of their own number, (23 ministers and 6 elders), three ministers to be a quorum, to concur with the Presbytery in ordaining Mr. Syme. That committee reported

to the Commission of March 1751, that there met on the day appointed (Nov. 21st) *four* ministers, *viz.*, Messrs. Alexander Gordon, Kintore; Theodore Gordon, Kinethmont; James Allan, Eyemouth, and Jas. Turnbull, Linton; and *three* elders, the Laird of Dundas, Dundas of Philipston, and Robt. Mackintosh, agent for the Church;—that there were also present, *Messrs. Wm. Robertson, Gladsmuir; Wm. Currie, Kinglassie; and John Drysdale, Kirkliston;*\* that they had appointed Mr. Theodore Gordon, moderator, and that Mr. Alex. Gordon had preached on Psal. lxxxiv. 1, 2. It would seem from this that none of the Stirling Presbytery had made their appearance at the settlement.

*Logie (in Fife), 1750–51.*—This was the moderation of a call *at large*. When the case came before the Presbytery “there were certain indecencies alleged to have happened at the said moderation, by some *stones having been thrown at the electors*, and the Presbytery in consequence delayed judging the call till inquiry should be made into the allegation.” The Commission of March 1751 found there was no ground for delay, and remitted the case to the Presbytery. It came before the next Assembly (p. 215), when it appeared, that there were two calls—one to Mr. Alex. Pitcairn, the other to Mr. Sam. West. The friends of the former alleged that his call was signed by “the great majority of the landed interest, making a majority of proper electors liable to no just objection.” The Presbytery however, as well as the Synod, preferred West’s call, and that sentence was affirmed by the Assembly.

*Dundee, 1751.*—Certain members of the town-council gave a call to Mr. Thomas Boston of Oxnam (son of Boston of Ettrick, and one of the founders of the “Relief”), which was concurred with by a great majority of heads of families. But the Synod preferred a call given to Mr. Gershom Carmichael of Monimail, which the Assembly (p. 215) affirmed without a vote.

*Cromarty, 1751–52.*—Urquhart of Meldrum presented Mr. Thos. Simson, who, it was said, “had the concurrence of a great number of the most substantial of the parishioners; but the Presbytery not only received a petition from a few heritors of small feus, *inviting some men from different parts of Scotland and England* to come and preach, but had moderated in a call at large, and concurred in that given to Mr. James Robertson by some small feuars and elders.” The Synod had sustained said call, which the Assembly 1751 (p. 217) also did by a great majority. By next year, however, we find Robertson off the field, and a new call given to Mr. Patrick Henderson (p. 291), which was contested by Urquhart of Meldrum, and the question as to the right of patronage taken into the civil court (see p. 293).

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\* These gentlemen were no doubt present as Mr. Syme’s personal friends, though Robertson (whose sister he soon after married) and Drysdale were also warm supporters of the policy which effected his settlement. If this was the case too with Currie, he was a very different man from his father, who was long one of the leaders on the popular side. The son had been ordained his assistant and successor on March 13th, 1750.

*Irvine, 1752* (p. 218).—The only point in dispute here was as to the effect of a clause in the presentation granted by Lord Eglinton to Mr. Bannatyne of Kilmorie, in Arran. The complainers in the Presbytery were Messrs. Alex. Smith, Cumbray, and John Witherspoon, Beith (afterwards of Paisley); and the clause they objected to was the following:—"Reserving always to us, our heirs and successors, what part and portion of the tythes, parsonage and vicarage and others, of the same foresaid parish shall be found to be over and above the stipend modified and localled to the minister." The Assembly "having heard the opinion of honourable members learned in the law, that the clause in the presentation objected to does not preclude the minister from pursuing for an augmentation of stipend, if there be ground for it; and that there is nothing reserved by it but what the law itself reserves,—therefore dismiss the complaint."

*Torphichen, 1750-51*.—We have presented a full report of this case at its different stages (see pp. 156, 181, 198); but as it was the last case where a *riding-committee* was appointed, we here give, as a curiosity, the names of those who composed it (see p. 209):—George Logan, Edinburgh; John Jardine, Edinburgh; Hugh Blair, Canon-gate; Patrick Simson, Falla; Wm. Robertson, Gladsmuir; J. Barclay, Moreham; John Hume (Home), Athelstaneford; John Baird, Stobo; Wm. Anderson, Manor; John Buchanan, Covington; Bernard Haldane, Glenholm; Matthew Reid, Preston-kirk; George Ridpath, Stichel; Wm. Steel, Dalserf, *ministers*: and the Lord Provost of Edinburgh (George Drummond), Mr. Joseph Williamson, Mr. Solicitor-General Haldane, and Dundas of Philipston, *elders*—*five* to be a quorum, and of these *three* to be ministers.—*Mr. Wm. Robertson of Gladsmuir* to preach and preside, and the Moderator of the Linlithgow Presbytery to moderate in the meeting, and in his absence the said Mr. Wm. Robertson. The Moderator of the Presbytery is farther enjoined to call a meeting of Presbytery, who shall appoint one to preach at Torphichen either of the two next Lord's-days, and the person so appointed shall intimate from the pulpit this meeting for the ordination; but in case such intimation shall be neglected, it is hereby declared that this shall be no bar in the way of the committee proceeding by themselves, or in concurrence with the Presbytery."

#### VIII.—CASES OF TRANSPORTATION.

*Dalgety and Stirling, 1739-40*.—At the Commission of March 1739 was heard the Appeal by the town and parish of Stirling against the unanimous judgment of the Presbytery of Dunfermline, refusing to transport Mr. James Bathgate, Dalgety, to be one of the three ministers of Stirling. The reasons assigned for the transportation were—1st, That Stirling, as a Royal Burgh, was entitled to call a minister from any landward parish. 2d, The unanimity of the call. 3d, That Mr. B.'s transportation would prove an effectual mean to *sopite* (*i. e.* allay) their lamentable divisions occasioned by the Secession. "Mr. B. was then called on to declare himself, which he did (says the *Mercury*) in a moving and elegant strain, importing his ardent love and affection for the parish of Dalgety, and the reciprocal



return made by his flock ; and as from his youth and inexperience, he could not expect an equal success in the fatally-divided parish of Stirling—if ever it should be the judgment of the Commission to transport him, he could not bring himself to the resolution of obtempering. Hereupon the moderator appointed the Rev. Mr. Matthison to pray for light and direction ; which done, it was argued, that however hard Mr. Bathgate's case might seem, yet as not only parishes but whole counties had been *violented*, particularly in the North, soon after the Revolution, they might also for once violent the parish of Dalgety, and Mr. Bathgate too *propter majus bonum Ecclesiæ*. The question was then put, ' *Transport*' or ' *Not* ;' and it carried ' *Transport*,' by a vast majority. Mr. Bathgate's admission at Stirling was fixed for the last Wednesday of April, and the church of Dalgety to be declared vacant the first Sabbath of May next. The parishioners of Dalgety having protested against the sentence, Mr. Bathgate adhered, and ' it is said, persists in his resolution not to obtemper the sentence of the Commission ; and we hear, even declines to meet the committee appointed to *treaty* him into obedience.'"—*Caledonian Mercury of Thursday, March 15, 1739.*

The case came before the Assembly 1739, Messrs. James Graham, jun. and Archibald Murray being counsel for the parish of Dalgety, and Mr. Patrick Haldane for the town of Stirling. The decision will be found at p. 10.

When the Commission met in August, Erskine of Grange appeared for the town of Stirling. A letter was read from Mr. Bathgate bearing that he could not attend that meeting by reason of bodily indisposition, and craving to be reponed to his former charge of Dalgety. But the Commission declared *both parishes vacant*, and summoned Mr. Bathgate to next Assembly, leaving it to them to inflict the proper sentence.—*See p. 21.*

The matter ended in Mr. Bathgate being allowed to resume his ministry at Dalgety, where he continued for many years. Frequent mention will be found made of him in the account of the settlement of Inverkeithing, where he uniformly acted with the *moderate* party in the Presbytery.

*Tulliallan and Culross, 1739-40.*—The Commission of May 1739 sustained a call to Mr. Thomas Turner, from the parish of Culross (see above. p. 348). Mr. Turner, however, declined it, and the Presbytery of Dumblane refused to transport him. The case came before the Commission of May 1740, where Mr. T. "signified his great aversion to the transportation from Tulliallan." A vote was taken, —Transport, 37—Not transport, 40. He soon after went to one of the charges in Stirling, Dr. Macqueen (formerly of Dalziel, afterwards of Edinburgh) being his colleague. It was a sphere of great difficulty and responsibility, in consequence of the recent Secession of Mr. Ebenezer Erskine.

*Kinairnie and Rathen, 1741* (see p. 24).—This was rather a singular case, arising out of the zeal of a church-court to prevent the suppression of a parish. The parish of Rathen becoming vacant, Lord Salton, patron, the whole heritors and parishioners, expressed a desire for Mr Geo. Largue, minister of Kinairnie, but the Presbytery refused to moderate

in a call to him, or allow him to be so much as on the leet. This was reversed by the Synod; and "the Presbytery," says the *Mercury*, "thought it *prudent* to appeal." The reasons of the appeal were founded on a decree of the Court of Session, suppressing the parish of Kinairnie on the death or transportation of Mr. *Largue*, and the Presbytery imagined that his transportation would anticipate the evil day. But the Assembly (1741) judged their conduct so contrary to all good rules—to the natural rights of mankind—and to the particular right of the parish of Rathen, that they *unanimously* affirmed the Synod's sentence, and ordered the Moderator to express to the Presbytery their dissatisfaction with their conduct, in taking the said appeal upon such frivolous pretexts. They, moreover, ordered them to proceed to Mr. *Largue's* transportation *cum periculo*.—The reader may compare the case of *Dingwall*, at p. 351, above.

*Larbert and Leith*, 1740.—Mr. Aitken's call to South Leith having been sustained (see p. 18), a discussion arose as to the grounds of his transportation. "The only argument," says the *Mercury*, "for keeping him at Larbert, was that that parish stood more in hazard of being swallowed up (though not so near the sea as Leith) by the influence of the apostate preachers and their adherents."—After prayer for light and direction (the invariable practice in those days in cases of disputed transportations), it was agreed to transport Mr. A. to Leith.

*Dalziel and Stirling*, 1740.—The Presbytery of Hamilton refused to transport Mr. *Daniel M'Queen* from Dalziel, to be second minister of Stirling. But the Commission of November 1740 reversed the sentence by a very great majority, and ordered his admission to Stirling on or before the 28th January, 1741.

*Dingwall and Inverness*, 1742.—The circumstances attending the transportation of Mr. *Murdoch M'Kenzie* from Contin to Dingwall will be found among the "Notes on Disputed Settlements," at p. 351. When his call to Inverness came before the Assembly 1742, he signified his desire to be continued at Dingwall, but it carried "Transport." He still found difficulties in his way, in consequence of which the Assembly appointed a committee to confer with him.—ordered letters to be written to the magistrates and Presbytery, &c. He was ultimately settled at Inverness, where he remained till his death.

*Uig and Durinish*, 1742.—Mr. John M'Leod's transportation to Durinish was for some time opposed by Colin M'Kenzie, factor for M'Kenzie of Fortrose, sole heritor in Uig, but at the Assembly 1742, his Commissioner represented "that though that parish had a great regard to Mr. J. M'Leod, minister thereof, yet it does not now oppose his settlement at Durinish." And he was settled accordingly.

*Largo, Falkirk, and Canongate*, 1742.—Mr. Ferrier of Largo received calls both to Falkirk and Canongate; and they were both sustained by the Assembly, 1742 (see pp. 355, 356). The Presbytery of St. Andrews however continued him at Largo, refusing to

transport him either to Falkirk or Canongate. The Synod first, and then the Commission of November, 1742, *affirmed* the decision.

*Johnston and Moffat, 1742.*—Mr Nimmo's call to the latter place was sustained by the Commission of November, 1742 (see p. 357), but his transportation was opposed by the parishioners of Johnston. The question came by reference before the Commission of March, 1743—where it was doubted whether the Commission had power to judge in the case. A vote was stated, "Take in the reference," or "Not;"—it carried "Take in." Then the question was put, "Transport," or "Not,"—and it carried "Not."

*Dalrymple and Falkirk, 1743.*—The Presbytery of Ayr refused to transport Mr. Adams from the former to the latter parish. The case came before the November Commission, 1743, when Mr. Harry Home (afterwards Lord Kames) appeared as counsel for the Earl of Kilmarnock, and other heritors of Falkirk, who prosecuted the translation. It was objected that the Commission could not take it in as it had not been before the Synod, but this was over-ruled without a vote. And it was then carried, *nem. con.* to transport him. Mr. Adams was elected Moderator of next Assembly, (1744,) at which time he was still at Dalrymple, but by next year he had removed to Falkirk.

*Avoch and Tain, 1750.*—The magistrates, and town-councillors, heritors, elders, and heads of families of the town and parish of Tain, represented to the Assembly of 1750, "that sometime after the vacancy in said parish, some fruitless attempts had been made to bring about the settlement of two,—one of them a settled minister, and the other a young man, concerning whom the parish was very much divided. At length, both parties not knowing of one another's schemes, agreed that the Rev. Mr. Alex. Fraser of Avoch was every way well qualified for supplying a charge of such importance. They urged at length, that there could be no comparison between the importance of the charges." Mr. Fraser wished to be allowed to remain at Avoch,—and the question carried, "Not Transport."

#### IX.—DOCUMENTS RELATING TO THE AUGMENTATION SCHEME.

##### 1. *Case of the Scots Clergy.*

The following is an abstract of a paper delivered to the members of the House of Commons, entitled, *The case of the Commissioners from the General Assembly of the Church of Scotland, petitioners, May 31, 1751.* (Comp. p. 190.)

In this paper a short account is given of the proceedings of the Assembly, 1750, in relation to the Augmentation-Scheme, of the proceedings of the Mid-Lothian committee, and of the petitions presented to the Commons *hinc inde*. It is in particular, *inter alia*, narrated, That in the Assembly 1750, it was resolved, without a division, "to apply to Parliament, representing the distressed circumstances of many ministers of this Church by reason of the smallness of their stipends; and praying for such relief as they in their wisdom shall think meet;" that a

committee was appointed to prepare a plan of the method in which the affair was to be conducted ; that the Assembly, without a division, approved of all the articles in the report of this committee, except the last, viz. " That there should be no proposals made as to any alteration of the minimum," in place of which the following clause was proposed, viz. " Most humbly to pray for relief in the premises, and such further relief as to his Majesty and the two Houses of Parliament shall, in their great wisdom, seem meet ;" and, upon a division, carried by a great majority ; that from this resolution, rejecting the last article, and admitting the above mentioned clause in place of it, the Lord Napier entered his dissent\* ; to which the Lords Justice-Clerk, Advocate, President, and Shewalton, Mr. Robert Dundas, and several other members, adhered ; that the four Hon. persons first named as members adhering to the dissent entered by the Lord Napier from the resolution concerning the minimum, together with the Marquis of Lothian, and Robert Dundas, Esq., had been members of the aforesaid committee, and in that committee had proposed or agreed to the four first articles of their report being made the subject of an application to Parliament ; that upon the faith of that encouragement the Assembly resolved expressly to apply for relief in these four first articles, in confidence that in these they would not be opposed, but have the aid and concurrence of the landed interest ; but that as to the last article, concerning the minimum, they did not make it a part of their express resolution, it being only declared to be understood, that by the words, *such further relief*, the Commissioners *might* apply for an increase of the minimum ; that the Commissioners being thus left at liberty to apply for the increase of the minimum, or not, according to their views of succeeding, they had altogether waived it in their petition ; that the Mid-Lothian committee, in their advertisement soliciting subscriptions give notice, that they had " empowered Andrew Chalmer, their clerk and agent, to receive the voluntary subscriptions of, and grant receipts for the money which should be paid by all land-owners who should think *this matter of the scheme for augmentation of stipends* merited their attention ;" that neither in the instructions from the county of Edinburgh itself, nor in those from any of the other counties, is there one word directed against any of the aforesaid four articles, upon which there was no division or diversity of opinion in the Assembly, but that all these instructions were levelled singly against the last article, which had been the sole point in dispute, and occasion of the dissent, namely, *the augmentation of the minimum* ; that accordingly the Mid-Lothian committee applied themselves with great diligence to collect materials for maintaining their opposition against that article, and caused these materials be printed in a book, of 320 pages 4to, entitled, *A collection of all the papers published in relation to the scheme for augmenting the stipends, &c.* ; that the last piece in this collection, is a pamphlet, or argument, summing up the evidence upon this sole contested article,

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\* The *Reasons of Dissent* will be found in the Scots Magazine for 1750, pp. 224, 285, and the *Answers* by the Committee of Assembly at pp. 401, 514, but they are too long for insertion. They were both published separately with introductions, the motto of the landed interest being "*Pro Focis*," and of the Clergy, "*Pro Aris et Focis*."



under the title of, *An impartial account of the scheme for augmenting the livings of the Scots clergy*; that before this printed collection, or any of the members of the Mid-Lothian committee arrived at London, the scheme of applying for an augmentation of the minimum had been given up by the Commissioners, of which notice was given to the members of the Mid-Lothian committee as soon as they arrived; that further, the Commissioners having learned from several members of Parliament, that the second\* and the last† of the four articles, were not judged to be expedient or necessary to be proceeded upon, had resolved to insist for relief in the first‡ and the third|| only; that notwithstanding all this, to the great surprise and concern of the Commissioners, the Mid-Lothian committee had been pleased to set themselves in opposition even to these small requests, and to present a counter-petition; and that both petitions having been referred to a committee, and that committee having made their report, this paper is offered in behalf of the original petitioners, with an intention to give a short and true state of the case, and to submit the following observations.

1. That the principal evidence produced for the *opposers*, were a very learned gentleman, *their own counsel*, [Mr. Robert Craigie, Advocate], and the above mentioned Mr. Andrew Chalmers, *their clerk and agent*; both of whom were by the Mid-Lothian committee brought from Edinburgh, after notice given, that all thoughts of applying for augmentation of stipends were laid aside, on purpose to conduct, direct, and manage the opposition to the application made by the original petitioners, as it now stands.

2. The original petitioners humbly objected, That though these gentlemen, in themselves, or in indifferent cases, ought to be admitted as most unexceptionable witnesses; yet they were *incompetent* witnesses for their own *clients*, or *employers*, the Mid-Lothian committee: that this was a clear and settled point in the law and practice of Scotland, which ought to be the rule of evidence in a cause or matter in either House of Parliament relating to Scotland; and, as they are advised, would be no less a competent objection by the law of England.

3. The opposers have produced nothing to verify or prove the allegations of their petition, That they are Commissioned, either by the county of Edinburgh, or any other county in Scotland, to oppose the articles in the petition that has been offered to Parliament by the Commissioners from the General Assembly. For, as it has been already observed, all their instructions are *confined to the scheme for augmentation of stipends*, or of the *minimum*; concerning which there is not a word in the said petition: neither have they brought one tittle of evidence, that the Parliament's granting relief in the *first* and

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\* For empowering Presbyteries to pursue for modification, locality, or augmentation.

† For empowering the Commission of teinds to suppress, and to alter the divisions of parishes.

‡ For making a general citation by the parish-clerk from his desk a sufficient summons.

|| For making stipends, if not paid within the year, to bear interest from the first half-year after they became due.

third articles above mentioned, will *greatly alarm the minds and disturb the peace of the inhabitants of Scotland.*

4. From the nature and merits of the case it would be unreasonable, and is incredible, that such consequences should follow. For of what importance is it to an heritor or landholder summoned by a minister in such action, whether the summons shall cost the minister twenty shillings, or one shilling, providing the defendant shall get ample or due notice? Or how can the peace of the country be disturbed, if persons liable for payment of stipends, who shall be so extremely dilatory in the payment of the minister's maintenance, as not to pay the same before the end of a full year after it becomes due, should be made liable to pay interest from the end of half a year after it became due? perhaps to indemnify a poor minister who was obliged to borrow money to go to market, and to afford an incitement to such backward debtors to be more punctual for the sake of their own interest.

5. The necessity of parliamentary relief in the first article, relating to the summons, appears from an Act of Parliament K. James V. of Scotland, *anno* 1540, chap. 75, entitled, *The order of summoning all persons in civil actions*, which settles the method that the opposers' own evidence have proved to have been constantly practised in the court of tithes ever since the union, when the Lords of Session were vested with the powers of that court: and they have also proved the great expense with which that method of summons must in many cases be attended; especially in those of the poorer ministers in the highlands and other remote counties.

It has been *objected*, That actions for settling or augmenting stipends are not civil actions; and therefore the method of summons does not fall under the statute 1540, and may be regulated by orders of the court of Commissioners of tithes itself, without the aid of Parliament.

*Answered*, 1. It is true, that the learned counsel for the opposers has assigned certain reasons for his opinion, that such actions for stipends are not civil actions; the meaning and validity of which reasons the petitioners shall submit to consideration, without any particular remarks. But Mr. Chalmer, their clerk and agent, and other witness, has given a different opinion from their learned counsel; and has said plainly, that a process for modifying or augmenting a stipend before the court of justice established by law for that purpose, is an *action*, and a *civil action*, not being a *criminal action*. And if so, it is not in the power of the Court of Session to repeal or alter an Act of Parliament. And when this first article was reported as the opinion of the committee of the Assembly 1750, it was done upon the proposition, or with the approbation of the Lord President of that court, of the Lord Justice-Clerk, and of two other judges of that court, who were all members of that committee, and concurring in that opinion. But, 2. If the court had power to make such regulation as is now prayed, and were also so minded, the same court could alter it again at pleasure; so that the Parliament alone can in this case give effectual relief.

It has been also *objected*, That although these two articles appear to be of small consequence, and cannot bring six-pence prejudice to any heritor or land-owner in Scotland, other than such as shall be

long and unjustly in arrear of paying the maintenance due by him to his minister ; yet the giving any relief now to the petitioners from Parliament, may encourage them, or their successors, at some future time, to make other applications to Parliament ; and therefore, the more effectually to deter them from any such attempt, they ought at this time to be sent away without any relief whatsoever.

*Answer.* The petitioners humbly submit the justice or conclusiveness of this argument, and if it does not prove too much. It may be safely left to the wisdom of Parliament, to discourage any unreasonable applications, whenever any such shall be made ; but the possibility of such being hereafter offered, is, with great submission, no good reason for the wisdom and goodness of Parliament now to deny a slender and moderate request made by the representative body of the Church of Scotland, in pursuance of an offer made, or of an opinion given, in the committee of Assembly, 1750, which consisted of sixteen ; and whereof one half were Lords, or landed Gentlemen, who were elders ; and of these again one half were four judges, as above mentioned ; and one other of them, was one of the now opposers, as a member of the Mid-Lothian committee : which committee, though it consists of individuals of great consideration, it is humbly hoped, that unless their objections shall appear, upon the merits of the case, to be truly weighty and material, the opposition of three Lords, and of three Gentlemen, will not be thought reason sufficient for denying, to the body of the ministers of the Church of Scotland, relief in the two articles above mentioned, that will or may be *beneficial* to them, and not in the least *prejudicial* to any one land-owner in Scotland, who is disposed to pay what he shall justly owe to his minister with any tolerable degree of punctuality. To all which it may be added, that this application to Parliament for these two articles was not only appointed by the General Assembly, 1750, without a division, as above mentioned, but was also approved and authorised by the last General Assembly, in like manner, without a division."

## 2. Case of the Landed Interest.

### *Observations on the clergy of Scotland's application to Parliament.*

1. By a law made in Scotland in 1617, and afterwards frequently renewed between that time and 1707, (when the like powers were lodged in the Court of Session), a Parliamentary Commission was erected, which was empowered to appoint, out of the tithes of each parish, *perpetual local stipends* to the minister of every kirk in Scotland, who they should find not provided at all, or whose provision was less than the sum therein expressed. The *minimum*, or lowest stipend of a minister, by this Act, where *the tithes of the parish would extend to that sum*, was to be five chalders of victual, or 500 merks in money, equal to £27 15s 6d Sterling : and the *maximum*, or highest stipend, was to be ten chalders of victual, or 1000 merks, equal to £55 11s 1½d Sterling. And there being in 1617 many stipends which exceeded that sum, they were not to be altered by the Commissioners, but were to remain as they were.

2. By two Acts made in 1633, the *minimum* was raised to eight chalders of victual, or 800 merks, equal to £44 8s 10½d Sterling ;

except in such particular kirks, wherein there should be a just, reasonable, and expedient cause to go beneath that quantity; of which the Commissioners were to judge: but these, or any other law, did not alter or repeal the maximum appointed by the Act of 1617. And by these Acts the Commissioners were directed, first, to set a value on the tithes of each parish, and after that was closed, they were to proceed to fix the quantum of the minister's stipend.

Bishop Burnet, speaking of this increase of the ministers' stipends, [*History of his own times*, vol. i. p. 10,] says, "It was raised to about £50 a-year; which, considering the plenty, and way of living, in that country, is a very liberal provision, and is equal in value to thrice that sum in the southern parts of England."

It appears that this increase of the stipend was not barely the act of the Legislature, but the result of a compromise extorted from the proprietors of the teinds, in consequence of a proclamation which K. Charles I. had issued, for annulling the Acts of Parliament which confirmed their titles to the teinds.

And it appears, that there was a general valuation of the teinds all over Scotland, in 1633; but that the records of great part of those valuations antecedent to 1650, were afterwards lost by shipwreck; and that by the burning the other records in 1702, the evidence of the other valuations are lost. This puts the proprietors of teinds under very great difficulties, and makes it very unreasonable to give any farther encouragement to the clergy's instituting suits against them; it being clear from these Acts of Parliament, that where the teinds have been once valued, they cannot have a higher or new value set upon them, on pretence of subsequent improvements; and that where a stipend has been once fixed or modified by a decret, it is not liable to be raised or altered by any subsequent decret on any pretence whatsoever.

3. It appears from the clergys' own accounts and proceedings, that they insist, that there are only 75 stipends in Scotland which are less than the legal of £44 8s 10 $\frac{3}{4}$ d; whereas there are in England and Wales more than 1700 benefices under £20 a-year.

It is proved, that the stipends of the first 18 of these 75 benefices are, in fact, above £44 8s 10 $\frac{3}{4}$ d a-year; that the stipends of 30 others are already fixed by decreets; and that in 10 others, the ministers have all the tithes of these parishes. So that of those 75 parishes there are only 15 that can be affected by the expense of summoning by messengers.

It also appears, that 10 of these 15 parishes have, on a medium, only three heritors each; and that, instead of being deterred from applying to have their stipends fixed by a decret, two of these fifteen ministers are now prosecuting suits for that purpose before the Court of Session.

And it appears, that the expense of these suits, which seldom exceeds £10 each, is usually defrayed out of the public purse, belonging to the clergy in general.

4. It appears, that if any of the clergy of Scotland stand in need of any relief, as to the present method of summoning in modification-causes, that the Court of Session have it in their power to redress it, by an act of *sederunt*; and with respect to the particular relief the clergy desire of summoning the heritors from the desk, it is liable to



many objections ; the law being extremely cautious, in suits in which a person's freehold and inheritance is to be affected in case of his non-appearance, that he have the fullest notice of the process issued for bringing him into court.

5. As to the complaint, that the stipends of the clergy in Scotland are ill paid ; it is unsupported by any kind of evidence whatsoever ; and it is proved, that the clergy are the best paid of any persons in Scotland.

And it appears, that, for the expense of a few shillings, a minister, as the law now stands, can, in fifteen days time, make the arrears of his stipend bear interest.

6. It is therefore humbly submitted, That the Legislature will not interpose in this affair, or grant what the clergy of Scotland desire, with respect to these *two points* ; they not having laid any case before the house, to prove the proposed alteration of the law to be either necessary or reasonable.\*

#### X. PROPOSAL TO AUGMENT THE SALARIES OF SCHOOLMASTERS.

No sooner was the scheme agitated for augmenting the stipends of the clergy, than a similar movement was made by the schoolmasters in Scotland to obtain an increase of their salaries. A general meeting of their body was held, according to advertisement, in the Magdalen Chapel, Edinburgh, on the 1st Sept., 1748, at which the following paper was drawn up, and ordered to be published :—

*Reasons for augmenting the salaries and other incomes of the established schoolmasters in Scotland.*

It is undeniable, that the regular and virtuous education of children is an affair of vast consequence to parents, and generally the greatest blessing and best portion they can possibly give them ; and that consequently they are under the greatest obligations, both of duty and interest, to have their children carefully educated.

The advantages of a right education are so many and valuable, that no thinking person can be ignorant or insensible of the importance of it. Every wise man, we presume, will readily own, that there is nothing more excellent in itself, and more profitable to youth, and consequently to society, than a suitable education.

Children, by nature, may be justly compared to rugged useless blocks of marble. It is instruction that must hew them into use, and polish them into beauty. Their natural abilities and good parts will lie hid or buried in their own bosom, and be lost to the world and to themselves, if the benefit of education come not to their relief, perfect and draw them forth into action. Knowledge and virtue, the noble effects of education, lay the foundation of a glorious, useful, and happy life ; they accomplish and adorn human nature, enrich and beautify the soul, afford counsel and comfort to the mind in every condition, and qualify the man for every office and occasion in life.

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\* The above paper was delivered to the members as the case of the landed interest. The report of the committee to whom both petitions were referred, is quoted for proof of almost every thing alleged in it. Another paper was likewise circulated relative to *Patronage*, which the reader will find at p. 196, note. The keenness with which the scheme was opposed may be seen in the "*Memorials of Oswald of Dunnikeir.*"

In fine, upon education almost entirely depends, whether men shall be good, wise and happy, or wicked, ignorant and unhappy.

Since then the virtuous education of youth is a thing so truly valuable, and so indispensably necessary, what a pity is it, that those who are employed that way are so poorly provided for, and labour under so many grievous hardships and inconveniences ! That this is true, will easily appear from the following considerations.

1. The salaries of teachers in country parishes are, for the most part, only £5 11s 1½d Sterling. Suppose, then, a schoolmaster to have forty scholars, (which, considering the many different parts of education he is obliged to teach, are as many as, or rather more than, one man can manage), and their quarters well paid, (which from experience is known to be otherwise), the amount will scarcely be £8 5s Sterling ; this added to the salary, makes £13 16s 1½d Sterling ; and if we take into the account what he has as Session-Clerk, &c., (which will not, unless in large parishes, exceed £3 Sterling, and in many not the half), amounts in all to £16 16s 1½d ; a part of which must go, in not a few parishes, for a house : how insufficient to maintain a single person, agreeable to his office and character, we leave to every man of reason and common sense to judge.

But if we suppose a schoolmaster's family to consist of six persons, by a calculation it evidently appears, that the quota for each person *per day* does not amount to two-pence. It is hardly possible to conceive how this can furnish them food ; and how they can procure themselves clothes, is still more inconceivable.

2. Schoolmasters ought to have books, especially such as are improvements upon what they teach ; but how is it possible to suppose a man can buy books, when he has scarcely wherewith to procure even the necessaries of life ? though the want of such books must be a very great loss to the boys under his care.

3. The employment of teaching is the most painful and laborious of any employment whatever, being attended with the greatest toil, arising both from the nature of their business, the various notions and humours of parents, and the different tempers and capacities of the boys themselves : so that it must be owned, that they who employ themselves in that way, with faithfulness and care, merit due respect and reasonable encouragement. But it is the very reverse : and what a shame is it to a flourishing, famed and civilized nation, that men so usefully, assiduously, and so laboriously employed for their country's interest, should be so much straitened in their circumstances ?

4. From the smallness of a schoolmaster's income, he must necessarily have a great dependence on the parents of those he teaches ; and this dependence is attended with inconveniences that will easily occur to any thinking person ; as the celebrated Mr. Steele observes, *Spectator*, vol. 2. No. 168. "'Tis pity [says he] but we had a set of men, polite in their behaviour, and method of teaching, who should be put into a condition of being above flattering or fearing the parents of those they instruct."

5. It is impossible for us, upon our present small income, to maintain that influence and regard which is due to our function and character. Want and poverty naturally depress our spirits, sink the credit of our office with people of every rank ; and, what is worst of

all, our injunctions can never have their due weight upon the children under our care, while possibly they see their master as little taken notice of as the meanest in the whole parish.

These grievances are not the complaint of schoolmasters alone, but even of those who are entirely disinterested in the case, and at the same time men of the greatest learning, judgment, and integrity. This the Rev. Dr. South takes notice of in his sermon *upon the education of youth*, p. 23, vol. 5, while at the same time, he expresses the highest regard for schoolmasters, and reckons them among the honourable and most useful members of society. His words are these, "The second sort of persons intrusted with the training up of youth are schoolmasters. I know not how it comes to pass, that this honourable employment should find so little respect (as experience shews it does) from too many in the world. For there is no profession which has, or can have a greater influence upon the public. Schoolmasters have a negative upon the peace and welfare of the kingdom. They are indeed the great depositories and trustees of the peace of it; as having the growing hopes and fears of the nation in their hands; for, generally, subjects are and will be such as they breed them. So that I look upon an able well-principled schoolmaster as one of the most meritorious subjects in any prince's dominions that can be, and every school under such a master, as a seminary of loyalty, and a nursery of allegiance.

"Nay, I take schoolmasters to have a more powerful influence upon the spirits of men, than preachers themselves, forasmuch as they have to deal with younger and tender minds, and consequently have the advantage of making the first and deepest impressions upon them; it being seldom found, that the pulpit mends what the school has marred, any more than a fault in the first concoction is ever corrected by the second."

The natural inference from all that has been said, is, that whereas the labour of those who educate youth is so great, their business of such importance, and their encouragement so small, it must appear highly reasonable, that their settlements be rendered more comfortable, by increasing their incomes, and in some manner proportioning their rewards to their toils; and it is to be hoped, that all those who truly regard the interest of their country in general, and of themselves and their posterity in particular, will heartily join in promoting so laudable and necessary an undertaking.

As a majority of the schoolmasters of Scotland were not present on the above occasion another general meeting was called, which was held at Edinburgh, on the 1st of March, 1749. They unanimously agreed to petition the Legislature for an augmentation of their incomes, and appointed their next general meeting to be held at Edinburgh, on the first Wednesday of September. Commissioners from each Presbytery were intreated to attend, and to bring their own and their brethren's proportion of the expense necessary for carrying on the design, calculated at 6s. each. The schoolmasters in such Presbyteries as found it inconvenient to send Commissioners, were desired to transmit their proportions to Mr. Gideon Crawford, bookseller in Edinburgh. It was recommended to schoolmasters immediately to apply to the ministers of their respective Presbyteries, for obtaining

their countenance and assistance.\* It was likewise recommended, that the schoolmasters of every Presbytery should meet twice or thrice a-year, to converse on the subject of education, and encourage one another to diligence in the duties of their office.

Accordingly they met at Edinburgh, on the 5th Sept., and sat three days. They resolved vigorously to prosecute their intended address to Parliament; for which purpose a considerable sum was collected, and proper steps were taken to cause deficient members pay up their arrears to Mr. Crawford, betwixt and the 1st of November. Finding that their former recommendation, to solicit proper advice and assistance, had not been duly complied with, this meeting appointed several of their number to wait upon such persons of rank and interest as they could have access to, particularly members of Parliament, to beg their favour and countenance; and such matters as the meeting could not go through were referred to a committee of the Commissioners from the Presbyteries adjacent to Edinburgh, to meet on the 6th of November. It was recommended to all the schoolmasters to send up to next general meeting their opinion with relation to the method of teaching, so as to introduce uniformity into their schools, being sensible of the great inconveniences that arise from the various and imperfect methods which prevail in most places, and being no less desirous of meriting than of obtaining better encouragement.

They again met on the 5th, 6th, and 7th Sept., 1750, and appointed a committee of five of their number to apply to Parliament, *provided no opposition should be signified by the landed interest*. The preses of the committee, and prime mover in the whole business, was Mr. Wm. Smith, schoolmaster of Abernethy. The following is an extract from the statement published by the committee, along with the scheme which was to be the ground of their application to Parliament:—

It is certain that our present encouragement will not procure even the necessaries of life to any person, though he should live at the lowest rate, being only at an average about £11 sterling per annum, or about 7d. a-day, which is less than the lowest mechanic can earn.—This small pittance, in most places, is to be collected from a hundred different hands, which makes a sad deduction, as there will be always several bad payers among such a number. Add to this the difficulty of making good baptism, marriage, and other dues, which make one third of the £11.—In several places, those of the Episcopal persuasion, Seceders, &c., keep a private register, and never insert their children's births in the parochial one. *They also publish the banns of marriage only in their own meeting-houses*, and seldom employ the parish-clerk for that purpose. The consequences of this is, that when the poor clerk or schoolmaster demands his dues, they answer that as he did not work for them he has no claim. So he is reduced to this alternative, either to want these considerable perquisites, or commence processes for subjects of 1s., or perhaps 4d., at a very great odds; inasmuch as it is much easier for a few outstanders, with a joint purse, to defend, than for a poor schoolmaster who is not worth a shilling to pursue.—Nor is this all. There can be several instances given, in places where schoolmasters have pursued for these dues, of inferior

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\* They applied to the Assembly (1749) for its countenance, but their petition was rejected on a point of form. See p. 132.



judges giving sentence against them; so that there must be some defect in the law in this respect. But it were needless to give a particular narrative of the many hardships we labour under; they are glaring enough, and our countrymen in general do us the justice to own we have reason to complain.

As to the question, What might satisfy us? we wish a general answer could be taken, That we will be satisfied with whatever the wisdom and goodness of the nation shall think meet; as we will, no doubt, be very unlucky in laying down schemes. But seeing something more particular is expected, in consequence of a promise made by our last general meeting, the following proposals are humbly submitted to all sincere friends of learning and mankind:—

1. That in all country parishes to the north of the river Tay (or some such distinction, in proportion to the rates of living), the annual salary for a schoolmaster be not under £8 6s. 8d. sterling (£100 Scots); to the south of said river, not under £11 2s. 2½d. sterling (200 merks Scots); in all royal boroughs, not under £13; and in royal boroughs where the offices of grammar-schoolmaster and session-clerk are disjoined, not under £20.

2. That in all parishes where there is not a sufficient house for the schoolmaster, and a small glebe, a sum not under £50 sterling to be forthwith applied, one half to build a house (the parish affording carriages), and the remainder to purchase an acre, more or less, of adjacent ground, for the maintenance of a cow. That where there are not vacant stipends, or other public funds for this purpose, the £50 be advanced by the several heritors, provided always that they be allowed to retain as much in their own hands of the first vacant stipends as will reimburse them.—Our chief aim being, not to throw any new or sensible burden on the landed interest, it is hoped patrons and gentlemen will approve of this method of applying at least one year's vacant stipend, especially as they are already limited to charitable uses within the respective parishes; and no application of them, we presume, is more charitable than this, nor more beneficial to society.

3. That in country parishes and lesser boroughs the offices of schoolmaster, session-clerk, precentor, keeper of the register, &c., be inseparably connected. It is true, some of these offices are in the gift of kirk-sessions; but as they have almost always bestowed them on schoolmasters (as the fittest persons possibly, or rather from a principle of generosity, and a conviction that schoolmasters could not otherwise subsist), and as they should be the first to show how much they wish to encourage learning and virtue, it is hoped they are too public-spirited to scruple the divesting themselves of an insignificant piece of power for the public good.

4. As many advantages might accrue to the public (especially in clearing up circumstances in law-suits) if there were a distinct register of births, marriages, and burials, kept in every parish; therefore that in all time coming such registers be kept by the schoolmaster; and that all births, &c. be inserted in it, under the penalty of 10s sterling for each marriage, and 5s for each birth or burial, not registered; one half to the poor of the parish, and the other to the schoolmaster as keeper. That sums not under 2s 6d be paid for proclamation of banns and inserting the dates of marriages, and not under 1s for inserting a birth or a burial in this register.

5. That the quarterly fees for teaching *English* be not under 1s 6d; for *writing, arithmetic, &c.* not under 2s; and for teaching *Latin*, not under 5s. *N.B.* It is thought, raising the wages on *Latin* to 5s or higher, might have all the advantages that would attend the suppressing *Latin* schools, and few of the inconveniencies.

6. That there be no private schools in country-parishes within three *English miles* of the parochial one; and that if at that distance, or nearer, it shall be found necessary to have another *English* teacher, he shall be under the immediate inspection and direction of the parish kirk-session and schoolmaster, and shall not on any account pretend to teach *Latin, &c.* We say, private schools, as comprehending all schools other than the parochial or established one. Only it is not meant that this regulation should affect such gentlemen as keep private tutors or governors in their families, if they teach only their own children.

By this scheme, then, schoolmasters would have, at a medium,

By salary £10, and clerk fee £1 5s.,	£11	5	0
By 20 baptisms, and 20 burials, at 1s. each,	2	0	0
By 9 marriages, at 2s. 6d. each,	1	2	6
By 25 <i>English</i> and <i>Writing</i> scholars, at 20d. per quarter each at an average,	8	6	8
By house and glebe, and two or three <i>Latin</i> scholars, about	5	0	0
	<hr/> £27 14 2		

*N.B.* The last article precarious as to *Latin* scholars.

The whole amounting, in country parishes, to about £27 or £28, and in boroughs from £30 to £40, and that without any new burden\* on the landed interest, and without sensibly affecting the poorer sort of people.

It is hoped none will think this a fund of luxury; yet, at the same time, we declare we think it such as, by diligent attention to our business, we could subsist ourselves and families on, in a decent easy manner, conform to our character. Heaven is our witness, we aim at nothing more; and to this we hope it will be allowed we have a natural right, as our labours are wholly devoted to the public, without a possibility of following any private occupation for bettering our circumstances.

We have, above, taken notice of some of the many advantages that would attend the success of this our scheme; and shall only add, that were it carried into execution, the country gentlemen might have the pleasure of seeing their children educated under their own eye, at schools where they would have all the advantages both of a public and domestic education, and few of the inconveniences of either. For, says a late writer, when handling the old question, Whether a private or public school is to be preferred? "I would not send my son to a school containing a hundred boys. No; this would be plunging him

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\* We say, without any new burden; because as the law stands we might have 200 merks Scots salary. The grievance we complain of is, that it is left optional to heritors, to give us either 200 or 100 merks, and that they have and will always give us the minimum if it is not raised; and upon this we cannot subsist.

into vice. Nor yet am I for a private school. I would rather chuse a school in some country-town, where there is a good master, and not above twenty boys. There, I am sure, if the master be a good moralist, the innocence and virtue of a boy is easily preserved, and a great stock of learning as easily acquired as at a large school: the emulation is the same; they will have the same vigour and vivacity, and be equally alert and industrious."

We shall conclude all by observing, that could the Lords of Session, or the Commissioners of supply, (whichever of them are our judges, for we are not sure), redress us in these respects without the aid of a new law, our complaints would never be carried beyond their impartial ears. But this cannot be; since, as the law stands, if we have 100 merks yearly salary, we have no legal claim for any more, no not for holes to lay our heads in, unless by the unanimous consent of every heritor in our respective parishes, which is but seldom to be expected. It is to our countrymen we mean ourselves at present; to *Scotsmen*, so long renowned for learning, valour, and honesty: who we hope will cheerfully condescend to these modest and reasonable demands which we have made: that so there never may be wanting in *North Britain* a set of honest men, who, considering this *being* only as an education for heaven, shall, in a dependence upon the grace of God, train up her generous sons, to run, with a noble ambition, "amidst such a cloud of witnesses, in sight of mortal and immortal powers,—the great career of justice," and to relish a peaceable, industrious and religious life here,

———Till by degrees of merit rais'd,  
They open to themselves at length the way  
To perfect *being* in a future state!

*Milton's Paradise Lost*, vii. 157.

*This in name and by appointment of the committee empowered by the late general meeting of Scots schoolmasters, to apply to Parliament for an augmentation of their livings, is signed by*

WILLIAM SMITH, *Preses*.

THOMAS PEIRSON, *Clerk*.

*N.B.*—One of our number is to go up to *London* to petition for leave to bring in a bill for the above effect, and will set out about the 25th of November.

Mr. Smith accordingly set out for *London* on the 29th Nov., but after Parliament had met, and a few days before the petition of the Church's Commissioners was presented (see p. 192), it was announced in the newspapers that "the petition intended to have been presented to Parliament by the Established Schoolmasters of Scotland was, for various reasons, and by particular advice, delayed till next Sessions."

There was a general meeting held at *Edinburgh*, on the 4th and 5th Sept. 1751, which approved of the conduct of their commissioner to Parliament for not pushing their petition; appointed another standing committee, vested with the like powers as the former, for conducting their scheme, till their next meeting; resolved to lay their distressed condition before next session of Parliament, if their funds answer, and no opposition be shewn by the landed interest; wrote circular letters

to their brethren, recommending to them to use proper means for gaining the countenance and approbation of the landed interest; and named committees to solicit letters of recommendation from the Lords of Session, the Universities, &c.

Before the next annual meeting, however, the scheme was laid aside. Two thirds of their number never contributed, so that their funds were found insufficient for it. The annual meeting held at Edinburgh, Sept. 2, 1752, recommended to their brethren all over Scotland, as an interim remedy, to raise their fees for teaching; fixing the minimum, *per* quarter, at eighteen pence for English, two shillings for reading and writing, half-a-crown for arithmetic, and five shillings for Latin. And in order to raise a fund for prosecuting any future scheme for bettering their circumstances, they recommended, that each school-master should pay sixpence *per* quarter, two shillings a-year; that the schoolmasters of every presbytery should chuse a collector for uplifting their quarterly payments; that these collectors should transmit the money to the general meeting, held annually at Edinburgh on the first Wednesday of September; and that the general meeting should lay it out at interest, on undoubted security, till it amount to a sum sufficient for effectuating their design.

## XI.—CASES OF LIBEL, DISCIPLINE, &c.

### 1. *Processes against Ministers.*

*Mr. James Hog of Caputh, 1738-40.*—This case commenced previously to the period embraced by this volume, and proved very tedious and painful. Certain questions as to *evidence* came before the Assembly, 1740, who referred them to a committee, whose report was approved by the May Commission. One question regarded two of the witnesses, who were members of the College of Justice, and therefore it was alleged were not obliged to appear before any other court; but the Commission found that they had no privilege as witnesses more than others. Again, one of the witnesses, who was of *Independent principles* declined to depone before a Church-Judicatory, but was willing to do it before a civil magistrate. It was the Commission's opinion that he might be examined before a civil judge, in presence, and at desire of the committee of the Synod of Perth and Stirling, by whom the investigation was conducted.—The process ended in an acquittal in 1741. The Synod expressed to the Assembly a wish to have the process printed at the Church's expense, but the Commission of May 1742 gave it as their opinion that it should neither be printed nor published.

*Mr. John Glass of Tealing.*—He had been deposed for Independent principles, but the Assembly 1739 reponed him to the office of the ministry (p. 10). He made no application himself, but several Synods, and especially that of Angus and Mearns (of which he had been a member), represented to the Assembly that he had been deposed on account of some peculiar principles, not inconsistent with his being a minister of the Gospel of Christ. They added, that Mr. Francis Archibald, late minister at Guthrie, had been restored in a similar manner.



*Mr. James Mitchell of Glenisla, 1739-40.*—He had been suspended for certain grave offences, says the *Mercury*—"such as swearing and drubbing neighbours' wives." The Synod of Angus and Mearns referred his case to the Commission of November 1739, who advised the Synod to re-consider the grounds of suspension, with his conduct since, and give sentence according to his demerits.—It ended, if I mistake not, in his deposition.

*Mr. David Mulcom of Duddingston.—Case of Non-Residence.*—Some notice of this eccentric individual will be found at p. 21, note. His mania for the Celtic tongue increasing, he went to London, whence (upon complaints being made of his long absence) he sent a letter to the Presbytery of Edinburgh, to the effect, that his object in that visit was to promote learning, and to convince the Legislature of the affinity there is between the Irish language, and that now and always spoken by the first inhabitants of Georgia, Carolina, &c. ; and thence subsuming, by consequential arguments, *that the Spanish monarch has not the least pretensions to these our colonies*, not even upon the footing of a papal grant.—This letter came before the Commission of November 1739, who recommended to the Presbytery to send him a letter, requiring him to return and attend his pastoral charge. With this injunction, however, he would not comply ; and, at the Commission of May 1740, another letter from him was read, "touching the cause of his stay in London."—At length, on the 24th March, 1742, he was deposed "for leaving his charge." He died soon after.

*Mr. George Buchanan of Drymen, 1742.*—The libel charged him "with the sin of uncleanness, first with Margaret Simpson in the year 1735, before he was in the ministry, and then with his first cousin, Janet Buchanan, in the year 1740, after he had been settled at Drymen." The Presbytery found him guilty and deposed him, against which sentence he took an appeal to the Synod, by whom the case was referred to the Assembly 1742. It came before the May Commission. His counsel arraigned the sentence as illegal and unprecedented, chiefly on the ground of the Presbytery having received an additional list of witnesses, and examined them. It was argued "that this process being the result of a *fama clamosa*, the Presbytery had spent near seven months in their privy-censures mustering up proofs ; and that, after examining these, to lead supplementary evidences was unfair. They might at this rate, serve up additional lists of witnesses, enough to keep a man upon the rack all the days of his life, and that this was not the practice of any court, civil, or ecclesiastical, except in cases of forgery. That the Presbytery, who were his prosecutors as well as his judges, had been no less irregular than keen in their steps—witness an attested extract thereof, whereby it appeared that *after deposing Mr. Buchanan, they had appointed a committee to consider the proof*, and see if the same came up to the libel, so as to justify their sentence—which, said the counsel, was like trying the pannel's cause after he was hanged. Upon the whole, it was submitted if Mr. Buchanan's appeal on a material point of law ought not to have stopt their proceedings *simpliciter*."

It was answered, that Mr. Buchanan's life and conversation had given such great discontent, that an inquiry became absolutely in-

dispensable, which the Presbytery went into, in order to clear up their brother's reputation; and they would have cordially wished that the proof of his uncleanness had not been accompanied with other atrocious crimes, whereby his ministry had been rendered contemptible; that the admitting additional witnesses was founded in the practice of the church, and to prove that it was so in law, *Voet* and other civilians were quoted. Nor could their procedure be stopt by an appeal, otherwise a pannel was at liberty, by throwing in his appeal against every witness or circumstance, to spin out his process in *infinitum*; nor had the Presbytery here proceeded to the execution of the sentence. And as to the attested copy of their minutes, it was a blunder in their clerk for which he had stood reprimanded. It was replied, "that even the minutes which the Presbytery produced so fair were visibly vitiated in the numerical folios, probably to serve a turn." The Commission, finding that there was nothing before them but the validity of the appeal, as to the additional list of witnesses, *dismissed* the said appeal, finding it groundless. Mr. Joseph Williamson, one of his counsel, protested, and appealed to the next Assembly, on account of the Commission not having enjoined the Presbytery to hear Mr. Buchanan or his procurators, upon the import of the proof taken.

Besides Mr. Williamson, Mr. Buchanan had brought with him as his counsel, at the morning sederunt, Messrs. Patrick Haldane, and Charles Hamilton Gordon; and in the afternoon, he brought, in addition to these three, the famous Alexander Lockhart, afterwards Lord Covington. This led to an attempt to limit the number of lawyers to be heard at the bar on one side of a cause, but it fell to the ground.

The process against Mr. Buchanan ended in his ultimate deposition (see p. 43.)

*Mr. Andrew Arrot of Dunnichen, 1742-44.*—The Commission of November, 1742, had before them a reference from the Presbytery of Forfar, stating that Mr. Andrew Arrot, minister of Dunnichen, had given in a representation, importing his secession from the judicatories of this Church for reasons therein mentioned. The case was delayed till March; and in the mean while, the Presbytery were appointed to endeavour to remove his scruples. At the March Commission, the Presbytery reported, that their efforts to reclaim him had been fruitless. On the report of a committee appointed to consider the affair, the Commission still recommended to the Presbytery to continue to use their endeavours to reclaim him, and if they fail, to report to the Synod. We hear nothing more of the case till the Commission of November 1744, to whom the Presbytery again referred it, and who advised them to proceed by libel to deposition, which seems to have been done accordingly, though Mr. Arrot made no appearance.

*Mr. Robert Thomson, Kirkhill, 1743.*—The Commission of May, 1743, had before them a reference from the Synod of Moray, about a minister libelled by some of the gentlemen of his parish; and, I have reason to believe, that the person intended was Mr. Thomson of Kirkhill. Some of the acts charged were within five years, but others in

1716, 1728, 1731, 1733, 1734. The Commission considering this case, and the Form of Process I. 4, gave it as their opinion, that the Presbytery ought not to proceed upon any of the articles libelled, other than those which were charged to have happened within five years preceding the citation. At the November Commission, three queries were addressed by the Presbytery of Inverness in the way of reference, respecting the libel against him; but the Commission gave no answer, the case not being so fully stated in all the circumstances, as that they could form a distinct judgment. There was at the same time, a reference from the same Presbytery, "setting forth some instances of rude and barbarous behaviour of the populace of the parish of Kirkhill towards their minister." They were advised to apply to the Sheriff or Justices.—He appears to have ultimately left the parish.

*Mr. Wm. Stewart of Kirkbean, 1743.*—The charge against him was adultery. The Presbytery refused him a list of the interrogatories they were to put to witnesses; and on that, and other points of their procedure, he appealed. They referred for advice to the Commission of August 1743, which advised them to go on to examine witnesses notwithstanding his appeal. As to the question, whether they should examine one who was sister to Mr. Stewart's wife (only by the father's side)—especially if it should be objected that the subject she is to be interrogate upon might tend to accuse herself—the Commission was of opinion she should be allowed as an *habile* witness; but if she declined being examined, that she ought not to be pressed or compelled to give evidence. How the process terminated the Record furnishes no information.

*Professor Leechman of Glasgow, 1744.*—A full statement of the charges and defences has been given at p. 46. The compearance for the Presbytery consisted of Messrs. Jas. Robe, Kilsyth; John Oughterson, Cumbernauld; and James Stirling, Glasgow;—with Messrs. Patrick Haldane and Archd. Murray, as their counsel. Professor Leechman appeared for himself, with Messrs. Charles Hamilton Gordon and Joseph Williamson, as his counsel.—There had been a very small minority in the Presbytery in his favour, composed of Mr. Craig of St. Andrew's Church, Glasgow, and others. Of the procedure in the Synod, the following account is given by *Dr. James Wodrow*, in his account of Leechman's Life, prefixed to the first volume of his *Sermons*\*:—"The sermon itself, which bore on the face of it strong marks of a devout heart, as well as of a highly cultivated understanding, had been much read and admired. In the space of a few months it had undergone a second edition. And this unexpected attack on the author, visibly calculated to raise a spirit of bigotry in the common people against him, soon roused the attention and indignation of many of the conscientious friends of religion and learning in that quarter, to whom Mr. Leechman was not personally known. It drew together a great number of the clergy from the most distant corners of that large Synod, together with several gentlemen of rank, who took their seats with them as elders, which they had not done for many

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\* Leechman's Sermons, vol. i. p. 24.

years before. The court assembled at Glasgow, in the beginning of April (1744); and, in consequence of Mr. Leechman's *complaint*, thought proper to call for the *papers*, and to take the business entirely out of the hands of the inferior court, who shewed great reluctance to part with it, having resolved to continue their sittings, and to hang up the cause for some time to the public view. The Synod appointed a particular diet to judge and decide it, in which the *remarks*, *answers*, and every thing referred to in both, were read, and read a second time article by article. Every member was allowed to propose what further objections occurred to him, and the Professor allowed to answer him, if he could, *viva voce*; which was done in several instances. On the whole, the Synod almost unanimously found 'Professor Leechman's answers to the remarks or objections made by the committee of the Presbytery of Glasgow, to be fully satisfying, and sufficient to remove any offence conceived: and found no reason to charge the said Professor with any unsoundness in the faith, expressed in the passages of the sermon complained of.' The Professor thanked "the reverend and honourable members of the Court for the time and pains they had bestowed in doing justice to his character; hoping that, through the help of God, he should, in the future exercise of his office, justify the favourable opinion they seemed to have formed of him.\*"

Mr. George Combe, the well-known writer on Phrenology, refers to Professor Leechman's case in his work on the "Constitution of Man," and thinks he has found in the Professor's sermon, a confirmation of his own views of the inefficacy of prayer; but how erroneous his deductions are, has been shewn by Mr. Wm. Scott in his "Harmony of Phrenology with Scripture," (p. 293).

Mr. Alex. Ferguson, Kilwinning, 1744.—Two libels were preferred against him by one James Leitch, both of which the accuser failed to prove. Leitch was then accused by the Presbytery of having thereby slandered Mr. Ferguson in a scandalous manner, and they placed him under the lesser excommunication, a sentence which the Synod affirmed. The case came before the May Commission, 1744. There was read a letter from the said James Leitch to Mr. Ferguson,† threatening to pursue him, unless he complied with certain conditions therein mentioned. The Commission *unanimously* affirmed the Presbytery's deliverance.

Mr. John Colquhoun, Baldernock, 1744-45.—His settlement having been keenly opposed (see p. 356), an accusation was brought against him by John Robertson of Boghall, and other elders, while he was on his trials for ordination, but it was dismissed by all the courts (see p. 65), "in regard it was not offered in form of a libel." A libel was then raised, which came before the Commission of March 1745. That body found that more than one witness was necessary to each separate

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\* Synod records.

† This was the same Mr. Ferguson who, in 1767, attacked, in "a Letter to a Clergyman," (published in the Scots Magazine, with the signature of A. B.) some of the fundamental doctrines of Christianity, yet was allowed to escape with impunity.



article; and then, "at a very full meeting," says the *Courant*, "they assoilzied him from the libel, and dismissed the process, not one article of which was proven. The Commission afterwards were about to consider the form of process relating to those who fail in proof of a libel; but Mr. Colquhoun moved that it was his earnest desire that the Reverend Commission would take no farther notice of the conduct of his accusers, upon which the Commission resolved at this time not to proceed any farther against them." The Record bears, that Mr. Joseph Williamson stated for them next day, that nothing had induced them to bring that libel, but that they had heard reports of flagrant things against Mr. Colquhoun, which they judged necessary to be inquired into; but as the proof had not come out as they expected, they withdrew all appeals.

*Mr. George Boes, Cupar, 1745.*—This case did not come before the Assembly or its Commission, but only a petition from certain members of the Cupar Presbytery was presented to the Assembly 1745, setting forth that certain papers relating to his (Mr. Boes') process, and necessary to set that matter in a just light in their register, had been through misfortune lost, and that they were of opinion that the easiest and most desirable way of ending all difficulties was to erase the whole affair. The Assembly gave them leave to do so, provided all parties consented.

*Mr. Edward Johnston, Moffat, 1746.*—An account of this case has already been given at pp. 88, 89. Comp. p. 357. The Commission of November 1746 advised the Presbytery to conclude the trial, without admitting any additional list of witnesses. It ended in his acquittal.

*Mr. David Brown, Belhelvie, 1744-47.*—He was ordained in 1721. In 1744 he was found guilty of adultery and deposed. He presented a petition to the Assembly 1747, representing that he was willing to go to America, "by which," said he, "I may have access yet to serve the Lord I have so greatly dishonoured, to teach transgressors his ways, and to provide for a numerous rising family, reduced through my guilt to low circumstances." This petition was accompanied with representations signed by elders, and a great number of heads of families of the parish of Belhelvie, certificates from the Presbytery of Aberdeen, the minister and kirk-session of Echt, &c., testifying his former diligence, faithfulness, and success, in the work of the ministry,—the blameless character he had always maintained before he became guilty of that sin,—the evidences he had given of repentance,—the proofs of his good affection and loyalty to King George during the late wicked rebellion, &c. The Assembly's decision will be seen at p. 102.

*Mr. Thomas Man of Dunkeld, 1746-47.*—The substantive charges in the libel have been already specified (p. 103). The *major* proposition was as follows:—"Whereas, it is the indispensable duty of all ministers of the gospel, and particularly of all the ministers of this Church, both by the command of God and the rules and laudable practice of this Church, to discourage and discountenance all measures

tending to *rebellion* against our most gracious sovereign King George, and the overturning of our present happy constitution in Church and State; and also, to encourage all his Majesty's subjects in their loyalty towards him, by setting before the people under their care an example of true loyalty and firm attachment to our present constitution,—Yet true it is, and of verity, &c.”—In his answers to the libel, Mr. Man speaks of the *general toss* into which the country had been thrown, the thorny roads he had travelled, the dangers to which he was exposed from “an enraged, inveterate, undisciplined, and uncivilized crowd, the wild western or northern Highlanders, &c.”

The question incidentally arose in the above case, as to whether a person's being examined as a witness disqualifies him from being a judge.—See p. 106. At the Commission in November 1746, Mr. Maclaggan “acknowledged his having, in conversation with severals in Edinburgh and elsewhere, informed them of what he knew concerning Mr. Man's conduct, which he could not avoid doing, as they asked him questions; but he maintained that his being a framer of the libel, or a witness, could not deprive him of the privilege of judging.” The Commission directed the Presbytery to allow no person who had been examined as a witness in any part of the process to be a judge—but the Assembly reversed this decision. And as to his having been the first informer and spreader of the *fama*, the Assembly, (1747,) judged these words to be inserted unnecessarily, “in respect they appear, neither to have been admitted by Mr. Maclaggan, nor proved upon him, nor made part of the foundation of the Commission's deliverance.”\*

Mr. Andrew Knox of Kinnaird, 1747.—The process here was in a civil court, but it involved the right of members of church-judicatories to the privilege of freedom of speech. Mr. Knox having, when

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\* One of the most curious documents in the Records of the Church respecting the *Rebellion*, is a representation presented to the November Commission, 1746, from Mr. Archibald Bannatyne, minister of Dores, in the Presbytery of Inverness, setting forth, “That as his house stands in a place 'twixt the Highlands and the low country on the king's highway to the east end of Lochness, no minister in Scotland, as far as he could learn, suffered the half of what he did from the rebels, or lay so much under the feet of M'Donalds, Camerons, Stewarts, and M'Leans, as they past, and repast 'twixt their own country, and their head-quarters of Inverness. Any, who is acquainted with that country, must know that travellers come through a long wilderness to the west of his house, where there is no provision for man or horse for twelve miles, and after some houses on the road were destroyed, there was no accommodation for eighteen miles. As they past in hundreds, fiftys, and dozens, for eight weeks time, they quartered man and horse upon him, banished him from his house, and after all his corns and provisions were consumed, they obliged his wife under pain of military execution, to find them provisions of all kinds on her credit, which involved him considerably in new debt. Besides this, they burnt a house of his, with all the furniture and utensils in it; made a bon-fire of his whole year's fuel on the 30th October, as a mock celebration of his Majesty's birth-day, &c.” The Commission recommended him to the committee on the Royal Bounty, as the Assembly, 1746, had done Mr. Montfud, whose case is mentioned at p. 90, and who was employed by them as a Missionary.

sitting in Presbytery, asked a question touching the character of John Ferrier, an elder in Farnwell, and then a member of Presbytery, Ferrier pursued him for slander before the Commissary of Brechin, who gave sentence against Mr. Knox. The sentence was suspended by the Court of Session, and the Synod of Angus and Mearns having represented the case to the November Commission, 1747, a committee of inquiry was appointed, on whose report instructions were given to the Procurator and Agent to appear for Mr. Knox's interests. Respecting the result of the plea, the Records are silent.

*Mr. George Adam of Cathcart, 1747-8.*—This case has already been noticed at p. 111. Having been deposed for the sin of fornication with his servant Isobel Gemmill, and undergone a course of discipline before the congregation, the Presbytery had reposed him, without consulting the Synod; but the Commission of November, 1747, ordered a letter to be written to them, "prohibiting them to take any steps till they had the advice of the General Assembly." When the case was called at the Assembly, 1748, Mr. Joseph Williamson appeared in behalf of the patron, heritors, and people of Cathcart, "and offering to speak, *was not allowed, this being a reference, and not a cause needing to be managed and pled by a lawyer.*"

*Mr. Gilbert Man of Moneidie, 1748-50.*—This unfortunate man had been settled with an unanimous call in 1739, but seems not long after to have fallen into those habits of vice, which give his name an unenviable prominence in the church-records for several years. An account of the *first* disposal of his case will be seen at p. 115. The finding the second charge irrelevant seems to have been owing to the vagueness with which it was laid, no dates being condescended on more specific, than "on one or other of the days of one or other of the months of one or other of the years 1742, 1743, 1744, 1745, or 1746." On sentence being pronounced, he was "exhorted by the Moderator to a more circumspect walk, and conversation in his future conduct."

A new libel was raised against him, which came before the Commission of May, 1749. The process was conducted by a committee of the Synod of Perth and Stirling, in virtue of a Commission from the Synod to that effect. Mr. Man's counsel objected that the whole procedure was irregular, as not being begun and carried on by the Presbytery of Dunkeld. The objection was over-ruled. It was then objected against the libel, that it contained certain articles which had been the subject of a former libel, and as there laid had been found irrelevant. The Commission agreed, that upon articles which had been found irrelevant, not in themselves, but in the manner in which they were laid, a new libel might be given, and the same being relevantly laid, might be admitted to proof.—The *first* charge was the putting away his wife (daughter of Thos. Duncan, vintner in Perth), or at least writing a letter to her parents of such a threatening nature, as rendered it necessary to her own safety that she should leave the house. *Objected*, That Mr. Man's wife, the person supposed to be injured, had not compared as a complainer. The objection was overruled, and the article found *relevant* and *proven*. Among other instances of bad treatment, he was accused of not providing for his family as he ought, "particularly one summer that he gave them only

bear-meal, though he had two cows calved in his byre.”—The *second* charge was profane swearing, &c. ;—admitted *relevant*, but found *not proven*.—The *third* charge was “indulging in a sinful excess of anger or wrath, even to the degree of beating and cruelly striking.” This was found *relevant*, but as to the proof, some thought him “delirious,” others not. The votes being equal, and the Moderator declining to give his voice, Mr. Man “is not found guilty.”—One of the instances alleged, was his “searching for his beadle with an axe in his hand, and imagining he lurked below the stair in the manse, he struck upon the stair with the axe, until he broke one of the steps; afterwards, imagining he had killed him, he bid some of the people come and take out or feel the corpse of the beadle under the stair.”—The *fourth* charge was “being habit and repute a tippler.” It was found *relevant*, except in one particular, *viz.*, that when riding on the high way from Dunkeld, he has been observed to sway from side to side, after the manner of a drunken man.” On the general charge, he was, at the November Commission, found *not guilty*. When, in March 1750, the Commission was about to pronounce sentence, there was produced a petition of four elders, one residing heritor, and upwards of ninety heads of families of the parish, “praying that he might be continued their minister.” Some were for “Delay,” but it carried “Proceed.” He expressed his sorrow and his willingness to submit to any terms of reconciliation with his wife. He was rebuked, admonished, and enjoined to use all proper methods to be reconciled to his wife—a sentence, it must be acknowledged, of excessive leniency.

*Mr. James Ker of Dun, 1749.*—This was a libel brought by a parishioner, Robert Strachan, in Fordis, consisting of six counts which were all dismissed as irrelevant, by the Commission of May 1749, who also remitted to the Presbytery to consider the conduct of the libeller, if they saw cause. The first charge was the having, in the year 1729, compelled a woman to take and swear, before the congregation of Dun, an oath regarding the paternity of her child, which is given at full length in the Commission-Record, and which almost rivals in terrific denunciation the famous *Curse of Kehama*. Another charge was the rather venial one of having left his parish for one or two Sundays during the rebellion.

## 2. Processes against others than Ministers.

Among the Processes against *Probationers*\* there was the case of

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\* The overture anent the licensing of Probationers (p. 20), took its rise from the circumstance of “persons having gone to England, where they were not well known, and getting themselves licensed to preach the gospel by a very *scrimp* number of Dissenting Ministers, no more than three in number, and upon a most superficial trial.” (*Record of the Commission*, May, 1759.) “This, says the *Mercury*, it was alleged in debate, not only brought contempt upon the clergy, but was the cause of the divisions, which threatened the church so much;”—and we do find various instances of vacant parishes giving calls in preference to “ministers from England.” See Gillespie’s case at p. 276.

There appear to have been great irregularities in the mode of licensing probationers in the remoter districts of the country. Thus, in the case of



*Mr. Donald Fraser, 1741.* The libel consisted of six counts, branching out into a variety of specific charges, including drunkenness, scandalous indecencies and irregularities, "talking idle and frothy discourse," frequenting ale houses unnecessarily and unseasonably, "laughing in church when Mr. Hugh Duff was rebuking a delinquent; having been at a hunting-match, and drinking thereafter; having sat up one whole night drinking with George Ross, tenant in Fearn, upon idle disputes, &c. As to the last mentioned particular, "the witnesses were found to depone negatively as to the drinking, but agreed *as to the subject of conversation*, which is of no moment." He was also charged with having used undue methods, in order to procure a call to the parish of Fearn, for which he was at the time a candidate; see p. 355. The Commission of May, 1741, pronounced upon the whole a general acquittal, but finding "that Mr. Fraser had uttered some indecent expressions, and particularly concerning Mr. John Balfour, minister at Nigg, which the said Mr. Fraser had formerly acknowledged and professed his sorrow for, and begged pardon, with which Mr. Balfour declared himself satisfied, the Commission agreed he should be admonished on that account, and it be recommended to him to be more guarded in his conversation for the future"—which was done accordingly.

The case of *Mr. Andrew Henderson* came before the May Commission, 1742. The Synod of Moray had suspended him for the scandals of profaning the Lord's-day, lying, and prevarication. The Commission continued the suspension, and appointed the Presbytery of Edinburgh, within whose bounds he then resided, to keep an eye over him, and appointed him to converse with the ministers of Edinburgh, who were instructed to report to the Presbytery what they knew of him, and the Presbytery to report to the Commission. His case was hung up for a considerable period, evidently by design. It was again brought up by the Synod of Moray to the Commission of May, 1744, who "found, that in his printed case, he had used certain Reverend Ministers of said Synod in a rude and indecent manner, by which he has discovered a disposition unbecoming the character of a preacher of the gospel, and an imprudent behaviour as an appellant under censure—affirm the sentence of suspension, and rebuke him from the chair." At length, it was intimated by the Synod to the Assembly, 1745, that if the Assembly thought fit to repon him, or to appoint any judicatory to do it, they (the Synod) would not reclaim. The Assembly remitted the case to them to repon him if they found cause—which was probably done, as we hear no more of the matter.\*

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*Robert Munro*, (Commission Record, May, 1744,) the Presbytery of Dornock had declined giving him license, but the Presbytery of Tongue did. The Synod of Sutherland and Caithness, however, not only took his license from him, but sharply rebuked the Presbytery. The Commission restored his license, expressed themselves highly dissatisfied with the Synod, and rebuked them at the bar. But as the Presbytery of Tongue had not observed the Act 1742, they were recommended henceforth to observe the Acts of Assembly, and *not the Acts of the Synod of Sunderland and Caithness*.

\* It was perhaps the delays in this case that led to the overture for extending to Probationers the benefit of that part of the Form of Process which relates to ministers. See p. 67.

The case of *Mr. John Kennedy* also came before the Commission of May, 1742. There were two libels against him, one accusing him of lying, slander, stealing, drunkenness, and obscene talking—the other of beating, scurrilous language, cursing, and profane swearing. One of the articles he was alleged to have stolen was “a receipt for curing a cancer.” The Commission unanimously affirmed the Presbytery of Edinburgh’s sentence, depriving him of his license—a judgment which the Assembly, 1743, confirmed upon appeal.

Of the Processes against *Schoolmasters*, the most remarkable was that against *Mr. James Kemp*, schoolmaster of *Fetteresso*. It seems to have partly originated in a political quarrel between him and *Mr. David Burns*, the minister of the parish, Kemp being suspected of being a Jacobite. His appeal against the Synod’s sentence of suspension came before the Commission of May, 1739. “The pleadings, says the *Mercury*, (*a Jacobite Paper*,) were very entertaining, and as abundance of odd stories were told, the whole seemed a mere farce. *Mr. Kemp* objected to *Mr. Burns*, the minister, that he told romantic tales, particularly, that a horse of a friend of his dying suddenly was flayed, but soon after started up alive, and that his master, being concerned for the poor creature’s want of hair, covered him with sheep skins, which, uniting to his flesh, the horse produced several stones of wool every year after. The schoolmaster was accused of neglecting his school, going to an Episcopal Chapel, and to the *tippony* house—and what is worse than all—that he drank to king *James’* health.” The matter seems to have been in the first instance compromised, but a new process was raised, which ended in *Kemp’s* deposition from office. The Commission of August, 1739, dismissed his appeal, but “could not altogether approve the conduct of the Synod for having allowed the matter formerly to have been compromised by the parties. Where gross enormities are alleged against a minister or schoolmaster, the same ought not to be huddled up by a compromise.”

In 1746, *Mr. Charles Gordon* was appointed schoolmaster of *Elton*, but being suspected of disloyalty, the Presbytery scrupled to admit him. The November Commission advised them to admit him, but to keep a watchful eye over his future conduct.

In 1748, the *schoolmaster of Alyth* being libelled for disloyalty, carried the case into the Court of Session (p. 112.) The May Commission instructed the Procurator and Agent to appear, in order to maintain the right of the church judicatories, in judging of, and censuring schoolmasters.

Against *Mr. James Wilson*, schoolmaster of *Burntisland*, a libel was brought, accusing him of a number of scandalous crimes, which, however, the Commission of May, 1749, found irrelevant, with the exception of one charge, which was held *not proven*. But the Session were recommended to keep a watchful eye over him, and if they saw cause give him a new libel. Not long after the Session deposed him for having proclaimed two persons in order to marriage, without the knowledge or consent of the minister and session. The Synod reversed that judgment, and the Commission of May, 1750, acquiesced in the Synod’s decision, but recommended to *Mr. W.* to employ some other person to do the duties of precentor and Session-clerk. This

recommendation he did not choose to follow, and hence a fresh complaint to the November Commission; but in March, 1751, the report is, "that the differences are adjusted to the satisfaction of all parties."

With regard to accusations against *Elders*, it was represented to the Assembly, 1740, by Mr. Patrick Maxton of *Auchtermuchty*, that all his elders, to the number of eleven, "had deserted his Session on an event that had happened in the month of September, 1737, and that all the endeavours used to remove their scruples had been ineffectual." The matter was referred to the Commission, but at the November meeting, all procedure was then dropt at Mr. M.'s own request. It seems, however, to have been resumed in the inferior courts, for we find in the Assembly Record, 1742, a protestation admitted, that the elders had fallen from their appeal against a sentence of the Synod of Fife, affirming that of the Presbytery of Cupar, finding a libel against them relevant. Of the result of the process I am ignorant.

The case of the *Tannadice* elders will be seen in a note to p. 357.

That of the *Colessie* elders, has been already stated at p. 98. Nothing effectual seems to have been done in the matter in 1747, for we find the Commissions of both May and November, 1748, recommending to the Presbytery of Cupar, and Mr. Mathie, to use their best endeavours at all hands to bring about a good understanding.

The November Commission (1750) advised Mr. Ker of *Dun* (the person mentioned at p. 391), and two of his elders, to live in peace and friendship.

The ordinary cases of discipline appealed to the Assembly during this period, and by them uniformly referred to the Commission, present nothing remarkable. The sentence of the inferior court was in almost every case affirmed.

*Case of Sabbath Profanation.*—At the Commission of August 1739, a representation was read from the Synod of Moray and Presbytery of Forres, respecting Robert Main, skipper of a fishing-boat at Nairn, and five other seamen, his crew, who had given offence to the Session of Tarbet (in Rosshire), by setting to sea from a harbour in that parish, on a Sabbath morning. They had expressed their willingness to remove the offence by submitting to the discipline of the Church, and had been appointed to be rebuked in the church of Nairn, but the Magistrates of Nairn had, by their authority, discharged their compearance.\* The Commission found the representation incompetent, not containing information as to whither the said seamen went, what they did at sea after they went out, &c., and therefore could give no advice until a more distinct account of the case be laid before them.—No farther mention of it occurs in the Records.

At the November Commission 1741, there was read a letter from the Presbytery of Dunkeld, for advice in the case of one John Sanders, "who was lately present at a marriage, and took a young woman by the hand when the parties marrying joined hands, and whispered the

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\* The Magistrates were probably Episcopalians, for Nairn had no Presbyterian clergyman till the year 1730.

words pronounced by the bridegroom, and the woman did the same as the bride was pronouncing them,—and these two persons continue since to co-habit together. The Commission advised the said Presbytery or the Session to call them before them, and judicially take their acknowledgment of co-habiting together, and declare them married persons;—rebuke them for their irregularity, and direct a prosecution against them before the civil court, for the penalty incurred by such as are guilty of clandestine marriages.”

At the same Commission a reference was taken up from the Presbytery of Brechin, respecting Helen Loch, “who having born a child in fornication, gave it first to an unmarried man, and afterwards to a married man who denies the guilt. The Commission advised the Presbytery to censure the woman as adulterous, and that they ought not to proceed to any steps against the man on her accusation.”

A reference was made to the Assembly 1745 (p. 73,) respecting *Sceders* who refused to submit to discipline. The May Commission “agreed to direct the Presbytery of Lanark to proceed against scandalous persons within their bounds, agreeable to the forms of process, without regard to their pretence of being not of the communion of this Church.”

At the same meeting, Andrew Birrel, found guilty of indecent and scandalous behaviour, instead of being rebuked before his own congregation at Kinghorn, was rebuked by the Moderator of the Commission.

The long-pending case of *David Haggart*, Cairnmuir (p. 157), was finally decided by the May Commission 1749, who unanimously affirmed the sentence of the Synod, appointed the Presbytery of Dunkeld to deal with his conscience, and the Moderator earnestly exhorted him to repent of his wickedness.

In various cases of scandal (*e. g.*, E. Maxwell, May Commission, 1748; Andw. Wright, March Commission, 1751; Thomas Simson, May Commission, 1751) the accused party was acquitted, on the ground of there being no other presumptions of guilt than the woman's accusation.

## XII. CASE OF COCHRAN OF CULROSS.

The scene in which this gentleman bore so conspicuous but discreditable a part, took place in the Assembly of 1748. A short abstract of the proceedings to which it led has been given from the printed Acts at p. 113 (Comp. p. 141, note). The following are the details furnished by the minutes of Assembly:—In the account of the pleadings in the Culross patronage case, the record has these words in a parenthesis—“the said Mr. Charles Cochran, patron, having expressed himself in a manner to be hereafter noticed.” And after an account is given of the disposal of the case, it is said:—“In the course of the pleadings above-mentioned, Mr. Charles Cochran said publicly, that if the Assembly would appoint a committee of any of their number to converse with him, other than the members of the Presbytery of Dunfermline, he would make it appear that Mr. Hardie, minister of Culross, had, in order to raise the opposition to Mr. Trotter's settlement, used very indirect practices,—that he had screened fornication, *yea, and even murder, too*—and repeated, “*yea, and I say, even*



murder, too," and turning about, pointed to Mr. Hardie when he said so. The General Assembly, in consequence of so open and gross an accusation, emitted against a minister in their presence, resolved to call upon Mr. Cochran to sign his accusation, that so the Assembly might appoint a committee to hear him in terms of his proposal, or that upon conviction of his fault and rashness, he might have an opportunity to make due acknowledgment to Mr. Hardie for the injuries done him, and to the Assembly for the indignity done to his Majesty's High Commissioner and to them." When they were about to summon him, it was found he had withdrawn. He was then summoned for next day, and the Assembly resolved that if he should not appear, they "would in that case interpose their authority and concurrence with the said Mr. Hardie for his interest, to bring a process before a proper court for due reparation of this injury, and do appoint that such process be carried on by the Procurator and Agents for the Church, at the public expense."

Next day Mr. Cochran, on appearing, was asked by the Moderator, whether he would substantiate his accusation yesterday emitted against Mr. Hardie, or retract the same and acknowledge his offence? For answer to which he produced a paper, which was read at the bar as his speech, whereupon Mr. Hardie, with Mr. Joseph Williamson, advocate, as his Procurator, were heard, who insisted that the said paper should be subscribed by Mr. Cochran, and given in to the clerk. Parties being removed, the Assembly, after long reasoning, agreed to call them in again; and Mr. Cochran being asked whether he had any thing farther to offer to the Assembly? he answered, that he had nothing other than what he had already laid before them, only he acknowledged he had not sufficient proof for saying yesterday what he had spoken out. Upon this Mr. Hardie declared, that he heartily forgave Mr. Cochran the rash expressions he had used against him. The Assembly having considered the foresaid accusations thrown out by Mr. Cochran at the bar against Mr. Hardie, and the matters advanced by him in support thereof this day, and considering that Mr. Cochran had also asked pardon of the Assembly, and acknowledged that he had not sufficient proof to support the said accusation, and that Mr. Hardie did heartily forgive him, the Assembly agreed that the expressions used were rash and groundless,—therefore appointed the Moderator to rebuke and admonish the said Mr. Cochran from the chair, which was accordingly done, and the Assembly dismissed this affair."

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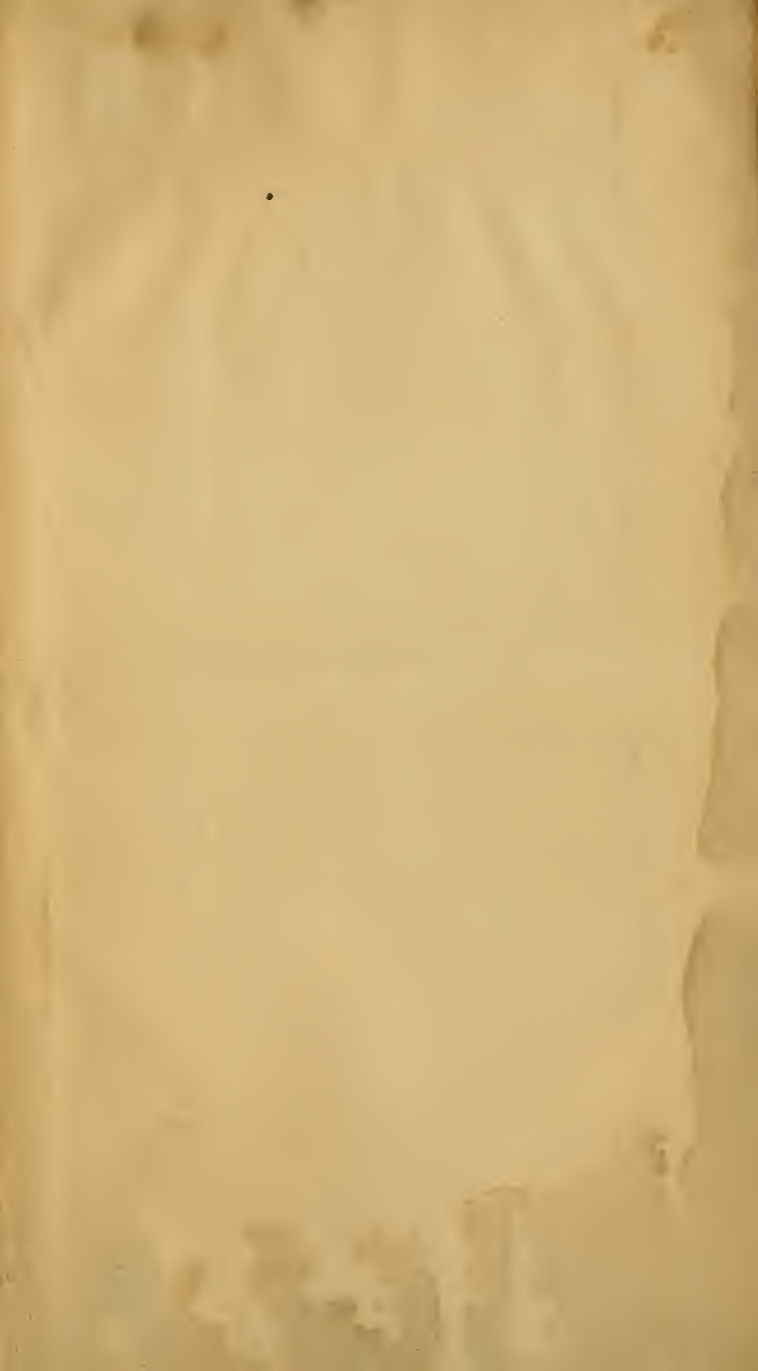
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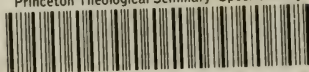
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